

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE NORTHERN DISTRICT OF TEXAS  
3                   DALLAS DIVISION

4                   UNITED STATES OF AMERICA                 ) CAUSE NO. 3:04-CR-240-P  
5   ( )  
6                   vs.   ) SEPTEMBER 29, 2008  
7   ( ) DALLAS, TEXAS  
8                   HOLY LAND FOUNDATION, ET AL             ( ) 9:00 A.M.  
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10                  VOLUME 10 OF 37

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11                  STATEMENT OF FACTS

12                  BEFORE THE HONORABLE JORGE A. SOLIS  
13                  UNITED STATES DISTRICT JUDGE  
14                  and a jury

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1                   THE COURT: I have not had a chance to look at all  
2 these written objections, but I have looked through a good  
3 portion of them and I understand Mr. Elashi is the Defendant  
4 who is in custody. Is your client here?

5                   MR. CLINE: Yes, Your Honor.

6                   THE COURT: And the rest of the Defendants, we don't  
7 need them here for this hearing?

8                   MR. WESTFALL: That is true, Your Honor.

9                   MR. DRATEL: Based on timing of morning prayer and  
10 the traffic, I didn't think they would be able to make it  
11 until 8:45.

12                  THE COURT: That is fine.

13                  All right. The objections to the search exhibits,  
14 Abdulqader wiretaps, the Ashqar wiretaps, the Baker  
15 wiretaps -- Let me start with the wiretaps. Those objections  
16 that were based on the hearsay and the timing, those are  
17 overruled, the same rulings that we have had previously.

18                  And then the items that were recovered in the searches,  
19 the Ashqar search and Elbarasse search, those are also  
20 overruled.

21                  MR. CLINE: Your Honor, may I ask one question on  
22 that?

23                  THE COURT: Yes.

24                  MR. CLINE: At the last trial Judge Fish  
25 conditionally admitted the co-conspirator statements subject

1 to a motion to strike at the end of the Government's case.

2 THE COURT: And you can have that.

3 MR. CLINE: So at the end of the Government's case  
4 we can renew --

5 THE COURT: Correct. I understand the argument with  
6 whether a conspiracy is established or not. We are early on  
7 in the case, so certainly you can have that conditional  
8 admitting. So that would apply to all -- the wiretap?

9 MR. CLINE: And I am sorry to keep interrupting.

10 One other thing. May we have -- Just to make sure our record  
11 is clear, may we have a conditioning objection to the various  
12 exhibits based in what is stated in our pleadings so we don't  
13 have to keep hopping up and objecting to things.

14 THE COURT: Yes, sir. And you may have that  
15 continuing objection.

16 MR. JACKS: Judge, since it is going to be a  
17 continuing objection, we would ask that the Defense not stand  
18 up and make an objection if the document or exhibit doesn't  
19 have an author or indicated. We think that is unnecessary,  
20 and in a way it is intended to communicate something to the  
21 jury that is not necessary and appropriate at that time.

22 THE COURT: Counsel, any response to that?

23 MR. CLINE: I think we have a continuing objection,  
24 so I don't think --

25 THE COURT: And I have ruled on those objections.

1       All right.

2           I am on page 11 and 12 of the Defendants' written  
3       objections, the El-Mezain deposition. And on page 12 at the  
4       very end of Roman numeral paragraph 4, pages 2 to 6 of the  
5       proposed El-Mezain deposition, Mr. Jonas, do you see that?

6           MR. JONAS: Yes, Your Honor. And if I may address  
7       the deposition issue. Ms. Hollander and I met yesterday to go  
8       over the deposition of her client Shukri Baker as well as the  
9       declaration. I believe we came to an agreement as to how the  
10       final form should be, and those changes were made this  
11       morning.

12           THE COURT: Are you in agreement with that?

13           MS. HOLLANDER: I am. And I brought a copy just to  
14       make sure -- We were doing it pretty fast, but I think we have  
15       it, Your Honor.

16           MR. JONAS: On the El-Mezain deposition, we received  
17       an email from his counsel late last night that they have some  
18       objections. We just had a very, very brief discussion on it  
19       just before Your Honor got on the bench. There is one or two  
20       pages of that I plan to getting into this morning with Agent  
21       Burns. I don't believe I am get into anything else.

22           We will meet to discuss the rest of their issues and try  
23       to work something else at the end of the case. So I guess my  
24       point is if Your Honor can reserve ruling on that.

25           THE COURT: Certainly.

1                   MR. DRATEL: That is appropriate, Your Honor.

2                   MR. CLINE: And, Your Honor, on the subject of the  
3 depositions and declarations generally, on behalf of Mr.  
4 Elashi, and I suspect the other Defendants not involved will  
5 agree with this, we would ask the Court at the time the  
6 excerpt is read into evidence to give a limiting instruction  
7 that it applies only to the Defendant who is the declarant in  
8 the particular piece of evidence.

9                   MR. JONAS: Your Honor, our position is that is fine  
10 if we are offering the statement for the truth. But if it is  
11 a statement that is a false statement that we say is done to  
12 further conceal the conspiracy, we don't think such an  
13 instruction is appropriate.

14                  And I think we need to be clear, because given the  
15 instruction last week that the instruction is because this  
16 particular statement in this particular deposition was made  
17 after the conspiracy pretty much ended, after Holy Land was  
18 shut down--I don't want to say after the conspiracy ended.  
19 That is the wrong term. But, this is after HLF was shut  
20 down--is very limited. I am concerned that what I said last  
21 week at the bench that if a Defendant makes a statement in the  
22 '90s, let's say, when the HLF was up and running, those  
23 statements certainly are statements made in furtherance, and  
24 we don't want the jury to confuse what they can limit to one  
25 Defendant versus what they can hold against everybody. So I

1 think we need to carefully craft an instruction for Your Honor  
2 to give at those appropriate times.

3 MR. CLINE: And I am not sure what is coming in today.

4 If we have time to do that, I am happy to meet --

5 THE COURT: And I think we will have some time. We  
6 will finish up here in just a few minutes, and then you can  
7 work on that or even during the day. And I won't give it  
8 until we come up with something.

9 The wiretap and the search exhibits, then, those  
10 objections have been overruled.

11 And then we are withholding on the depositions to give  
12 counsel a chance to work it out.

13 What other exhibits, then, do I need to rule on?

14 MS. HOLLANDER: Roman numeral five, the Al Zatounia  
15 and Illa Falistine exhibits. And I believe there are some  
16 more after that, Your Honor. Those are the next ones.

17 THE COURT: Those are the ones we will start with.  
18 And I don't have those. Do you have a copy of those that I  
19 can see?

20 MR. JONAS: Your Honor, we are going to have paper  
21 copies of those brought up. It may just take a few minutes.

22 THE COURT: Okay. And you are seeking to introduce  
23 the entire documents found these newsletters?

24 MR. JONAS: Honestly, we are still undecided about  
25 that. I think the way it stands right now, one is in its

1 entirety, and the others are just redacted versions. And I  
2 think the one in its entirety, we just have a translation for  
3 a few pages of it that we believe are relevant.

4 THE COURT: Which one is that one?

5 MR. JONAS: I believe that is Illa Falistine No. 1.  
6 And then the rest are just a few pages in Arabic that match up  
7 with the few pages in English that we have. And I can address  
8 the background of this if Your Honor wishes.

9 THE COURT: Go ahead.

10 MR. JONAS: In some of the Elbarasse documents that  
11 have already been admitted, they discuss the role and the  
12 purpose of the IAP, the Islamic Association of Palestine. And  
13 one of the functions of that organization was to publish a  
14 magazine. I can't remember if it is monthly. It is  
15 periodically. I can't say monthly or bi-monthly, and  
16 specifically identifies these particular magazines these Illa  
17 Falistine and Al Zatounia.

18 Contained within some of them are certainly ads from the  
19 HLF. And in one of them in particular there is a, for lack of  
20 a better word, a poem from the Defendant Shukri Baker that is  
21 an ode to Hamas. There is also an article in one of them that  
22 we seek to admit that talks all about Hamas, it is pro-Hamas,  
23 encourages people to donate to Hamas, and says to give your  
24 donations to the Occupied Land Fund, the predecessor to the  
25 HLF.

1       Clearly these magazines, if you look at the comment, are  
2 pro-supportive magazines of Hamas; consistent with everything  
3 we have seen so far, and everything we will see, about the HLF  
4 and the IAP, the Defendants, and the co-conspirators.

5       We received these magazines from a third party. They  
6 weren't obtained in a search warrant. They were not obtained  
7 by grand jury subpoena. They were given to us by third  
8 parties.

9       It is our position that they are self-authenticating  
10 under 902, I can't remember if it is (6) or (8) as  
11 periodicals, and that they are co-conspirator statements or  
12 joint venture statements made in furtherance of the  
13 conspiracy, so we think that they come in that way.

14       THE COURT: Okay.

15       Ms. Hollander?

16       MS. HOLLANDER: Yes, Your Honor. The third party  
17 they received these from we believe were the plaintiffs in the  
18 Boim litigation that you have heard about before. They are  
19 not -- They are parts of these magazines. There is one that  
20 is a complete magazine. The rest of those are just portions  
21 of them. The translations in many cases don't even include  
22 the whole thing.

23       In other words, they will translate it, and it will say  
24 "caption for photo," and the photo isn't even there of a  
25 demolished home or whatever.

1           I mean, they are hearsay within hearsay within hearsay.  
2 There is no way to know what they are, who said them. They  
3 weren't written -- We don't know who wrote them. Even the  
4 story that is allegedly written by Shukri, we don't know  
5 whether he wrote it. We don't know who wrote the headline of  
6 it, because editors write things and change things. We have  
7 no idea of these except to know they came from the Boim  
8 litigation. They came in in bits and pieces, and they are  
9 just rank hearsay.

10           THE COURT: What about the hearsay objection, then?  
11 You have covered authentication, but what about hearsay?

12           MR. JONAS: Because these magazines that are being  
13 published by the IAP, which, as we have already established,  
14 the Defendant Shukri Baker was involved with the IAP, but also  
15 he acknowledged in his deposition that he was on their  
16 advisory board at this time. It is co-conspirator statements.  
17 The IAP is publishing and creating this magazine.

18           With regard to the poem written by Shukri Baker, his name  
19 son it, and I think that goes to weight as to whether or  
20 not --

21           THE COURT: I agree with that. She has a hearsay  
22 objection just generally to these periodicals. And most of  
23 what she stated I think goes to weight, but what about the  
24 hearsay?

25           MR. JONAS: I guess, Your Honor, it depends upon the

1       particular item that she is referring to.

2                     THE COURT: Let's say she is applying hearsay to the  
3       entire periodical.

4                     MR. JONAS: Again, we think it is a co-conspirator  
5       statement that is published and created by the IAP. The  
6       article I referenced a moment ago, not the one that is  
7       authored by Shukri Baker, but the one that encourages people  
8       to donate to the HLF --

9                     The article I mentioned a moment ago -- Well, two things.  
10       One, again, it is like the Elbarasse documents. It doesn't  
11       always matter who authored it. The content clearly indicates  
12       that it is someone who is part and parcel to this Palestine  
13       Committee and is a co-conspirator, first of all.

14                     Second of all, we are not offering it for the truth. The  
15       content is all about Hamas and support of Hamas. We are  
16       offering it to show this is what is going on during this time  
17       frame involving these Defendants, this Palestine Committee,  
18       these co-conspirators, of encouraging people to donate to the  
19       HLF to support Hamas.

20                     MS. HOLLANDER: Well, Your Honor, two things. If  
21       they are not offering it for the truth, it is not relevant at  
22       all.

23                     And secondly, if they are not offering it for the truth,  
24       the jury is never going to get that distinction, anyway.

25                     And third, if these things come in, they involve all

1 kinds of political issues. For example, one of them is about  
2 the deportees in 1992, and it talks about some of the  
3 detainees who came back and were detained. Well, I believe  
4 that they were immediately released. This is a whole  
5 political issue that we are going to have to get into.

6 One of them talks about how the United States, even  
7 though it supported the resolution 799 in the U.N. condemning  
8 Israel, that there is a whole article about how later the  
9 U.S., somebody from the U.S. talked to Prime Minister Rabin  
10 and said, "Don't worry. We will make sure a vote doesn't come  
11 up." So we will have to bring that issue in.

12 It raises enormous numbers of political issues we can't  
13 just let sit there, and that are totally irrelevant.

14 MR. JONAS: Your Honor, I don't any of that is in  
15 the translation.

16 MS. HOLLANDER: Yes, it is. It is. I mean, I read  
17 it last night. That whole thing about the deportees, there is  
18 a whole -- all kinds of political issues raised in these.  
19 Even the one that has the statement that is attributed to  
20 Shukri has another article about Hamas in it, and we don't  
21 know who it is.

22 These were not -- There is one that they claim is an  
23 advertisement by Holy Land in this magazine, but the others  
24 are somebody in this magazine saying donate to Holy Land, and  
25 we have no idea who did that.

1                   THE COURT: I still think that goes to weight. What  
2 about these articles that have to do with the politics?

3                   MR. JONAS: Your Honor, I honestly don't recall that  
4 being in there. I will accept Ms. Hollander's word at this  
5 moment. But may I make a suggestion? There are very few  
6 pages that are translated right now that we plan on offering  
7 into evidence in English. If we could just show them to you  
8 and Your Honor can make the decision if they are issues that  
9 you are concerned about --

10                  THE COURT: And we can deal with that later, as long  
11 as they don't get to the jury. You are not planning on  
12 showing any of that to the jury today?

13                  MR. JONAS: Not today. I doubt we will get to it  
14 today.

15                  THE COURT: Even when you get to them, are you  
16 planning on getting into those political stories that she is  
17 talking about?

18                  MR. JONAS: No, sir, that is not the plan.

19                  THE COURT: So before you get into anything like  
20 that, approach the bench. And I think for what you are  
21 offering it, I think that is permissible and I will overrule  
22 the objections, those objections to those articles that you  
23 are talking about.

24                  MS. HOLLANDER: Your Honor, can we have a limiting  
25 instruction that they are not being offered for the truth?

1                   THE COURT: No. I think if you are offering them as  
2 part of co-conspirator statements, then they do come in and  
3 they can be considered for the truth. And I think, frankly,  
4 you are offering them for the truth. You say you are not, but  
5 then you are saying you want to show that in fact they are  
6 supporting Hamas, encouraging. That sounds like you are  
7 offering it for the truth. I think they come in with that  
8 exception, through that exception.

9                   MR. DRATEL: Your Honor, just with respect  
10 authentication, I just want to just lodge an objection based  
11 on the fact of I think in this day and age, in the context of  
12 self-publishing, that a third party giving something to the  
13 Government is not authentication of a published document, that  
14 it is what it purports to be.

15                  THE COURT: I don't think it is the fact who gave it  
16 to the Government. It is the document itself that  
17 authenticates itself by simply looking at it. And if you tell  
18 it is what it purports to be --

19                  MR. DRATEL: But no one can, because no one can tell  
20 us what an authentic version of these magazines look like. We  
21 have no testimony -- I realize the hurdle is not that great,  
22 but I think at some point --

23                  THE COURT: I don't think they are required to do  
24 that, otherwise there wouldn't be self-authenticating. I  
25 think that is the purpose of having the self-authentication

1 rule is the document authenticates itself. Unless there is  
2 something about it that is intrinsically unreliable. And if  
3 it looks like it is a periodical, I am not going to find that  
4 the self-authentication is not permissible.

5 MR. DRATEL: I just object on those grounds.

6 THE COURT: All right. You have your objection.

7 MS. HOLLANDER: So you are going to take a look at  
8 them, though, before --

9 THE COURT: I will take a look for those specific  
10 articles that you are objecting to. But in terms of the  
11 periodicals themselves, I think they are admissible for the  
12 purposes that Mr. Jonas has identified in terms of showing the  
13 link between -- Anything that has to do with the Holy Land  
14 Foundation, Occupied Land Fund, obviously that is admissible,  
15 and then having to do with Hamas, that is admissible for those  
16 purposes.

17 If there are other articles or other reasons you want to  
18 get into those, you would need to approach the bench before  
19 you get into those in front of the jury, Mr. Jonas.

20 Ms. Moreno?

21 MS. MORENO: Good morning, Your Honor.

22 I was trying to keep up over there. I may not have. On  
23 the HLF/InfoCom search documents category, has the Court ruled  
24 on those?

25 THE COURT: I don't know that I specifically did. I

1 think I stated the search and the wiretaps. Do you have  
2 objections to those, other than the general hearsay and the  
3 timing?

4 MS. MORENO: I do have a very strong hearsay  
5 objection. And if the Court would look on page 14, footnote  
6 10, the Court will see the kinds of articles that the  
7 Government readily admits it wants to -- it offered for the  
8 truth of its contents. And if they are not going to do that  
9 today, I can go more specifically at a later time into the  
10 specific objections with respect to these newspaper articles.  
11 But these are clearly hearsay.

12 THE COURT: What about these newspaper articles?

13 MR. JONAS: I don't think we readily admitted that  
14 we are offering them for the truth. In the fact, quite to the  
15 contrary. These were articles that were found in either HLF  
16 or InfoCom, and in many instances -- Not all, but in some  
17 instances they relate to conversations that the Defendants  
18 had. They are offered to show the Defendants' state of mind.

19 In other words, there is a call between two of the  
20 Defendants discussing one of the articles, and then we found  
21 the article at HLF or InfoCom. I think it is perfectly proper  
22 for us to introduce that article so the jury can see that this  
23 is what they are talking about.

24 THE COURT: She listed four articles there.

25 MR. JONAS: Off the top of my head, I honestly don't

1 know which article goes to which issue I just addressed, and I  
2 apologize for that. I think generally they are for the state  
3 of mind of the Defendants.

4 Some of them are for the conversations. Some of them  
5 just were found, for example, in Ghassan Elashi's office. It  
6 goes to show his knowledge, what he has been made aware of  
7 that is going on with Hamas and some of the Hamas leaders. So  
8 it is a state of mind issue. It is not a truth issue.

9 THE COURT: And I have not looked at those  
10 particular documents.

11 MS. MORENO: Your Honor, if he is offering it for a  
12 state of mind, that is an exception to hearsay. I mean, it is  
13 a hearsay document. And I believe if the Court looks at those  
14 articles particularly, and allows me to argue further --  
15 Unless they are getting into it this morning. Are you?

16 MR. JONAS: There may be one article we are getting  
17 into this morning.

18 THE COURT: Which one is that one?

19 MS. CADEDDU: Your Honor, may I raise another issue  
20 that is related, and that is that my client was not an  
21 employee or board member of Holy Land, and so what I am  
22 concerned about is these things that are found on Holy Land  
23 premises that are being offered to show the Defendants' state  
24 of mind, without some evidence that he had any connection to  
25 that document, or exhibit, I believe I am entitled to a

1 limiting instruction.

2 THE COURT: Let me finish ruling on this. That is a  
3 valid point, but we need to come back to that.

4 Mr. Jonas?

5 MR. JONAS: I am checking my order of exhibits for  
6 this morning, and I haven't seen any that will be addressed  
7 this morning.

8 THE COURT: This morning?

9 MR. JONAS: This morning. So if I am incorrect, I  
10 will ask for a sidebar.

11 THE COURT: Approach the bench. And then if you get  
12 into any this afternoon, be sure to let us know sometime  
13 before we break for lunch so I can look at them over the lunch  
14 hour, and I will take a look at them.

15 MR. WESTFALL: Your Honor --

16 THE COURT: Are you back on these newspaper  
17 articles, or something else?

18 MR. WESTFALL: Just one very short thing on the  
19 newspaper article.

20 Particularly on the Judith Miller article, that was an  
21 exhibit that Judge Fish actually kept out. Please read it.  
22 She has been very discredited as an author apparently some  
23 time ago. And the article has some very serious 403  
24 implications on top of the hearsay, and the fact that they are  
25 offering it for the truth, Your Honor.

1                   MS. MORENO: That is specifically the article I  
2 wanted to address with Your Honor. I think you need to read  
3 the article.

4                   THE COURT: And I plan on it. I just haven't done  
5 it yet. But you are saying you are not offering it for the  
6 truth, these particular articles.

7                   MR. JONAS: In fact, that particular article, if it  
8 is the one I am thinking of, the Defendants in this  
9 Philadelphia meeting that we are going to get to at some point  
10 today, the participants in this Philadelphia meeting, because  
11 I can't recall exactly who said it, but I think maybe the  
12 Defendant Shukri Baker made this comment at least once, talk  
13 about them being exposed, and exposed publicly. They use the  
14 word marked or stamped. This Judith Miller article is what we  
15 are going to offer to show this is what they are referring to  
16 is them being marked or stamped as Hamas.

17                  So it is not being offered for the truth. It is being  
18 offered to show this is what they mean when they say they are  
19 being marked or stamped. And it was found in the HLF.

20                  THE COURT: All right. I will take a look at that  
21 article. We will come back to that.

22                  Anything else on the newspaper articles?

23                  MS. CADEDDU: Just re-raising my objections about  
24 the state of mind issues.

25                  THE COURT: On the newspaper?

1                   MS. CADEDDU: In other words, that is being offered  
2 to show the Defendants state of mind.

3                   THE COURT: I was going to get to yours in a minute.  
4 I am trying to finish up the newspaper --

5                   MS. CADEDDU: I don't want to waive anything, Judge.

6                   THE COURT: Just hold on.

7                   Anything else on the newspaper articles, as far as their  
8 admissibility?

9                   Marlo, your turn. I think I have your objection.

10                  Mr. Jonas, do you want to respond?

11                  MR. JONAS: I am not quite sure --

12                  THE COURT: She says he was never an officer or  
13 board director member of HLF, and you have these documents  
14 that you are going to show state of mind of these HLF member  
15 Defendants, whether they are officers or board of directors,  
16 they are connected more directly to HLF. And she is concerned  
17 if he is not an officer or director or board member -- Did I  
18 get it right?

19                  MS. CADEDDU: Yes. Or an employee, and he had no  
20 office, and he wasn't there. And something that is found on  
21 the HLF premises, unless they have some evidence to show that  
22 he was aware of it, I don't know that that can go to his state  
23 of mind, so I ask for a limiting instruction.

24                  MR. JONAS: I am not quite sure -- I don't believe  
25 that the co-conspirator joint venture requirement goes to

1       whether you are an officer or director. It is whether you are  
2       a member of the joint venture. So the issue is whether or not  
3       the jury finds him to be a member of the joint venture.

4           We are going to establish, using as an example this New  
5       York Times article, that the Defendant Mufid Abdulqader was at  
6       the Philadelphia meeting. And that is where they discuss  
7       being stamped or marked. I believe it goes to weight.

8           If Ms. Cadeddu wants to argue that he was not that  
9       associated with the HLF and he wasn't aware of these issues,  
10      let her argue.

11           THE COURT: She is really not arguing that it is not  
12       admissible. She is trying to get a limiting instruction as  
13       to --

14           MS. CADEDDU: Let me be specific, Judge. There are  
15       some that the Government is offering as co-conspirator  
16       statements, and I don't think I am entitled to a limiting  
17       instruction as to that. But when the Government is offering  
18       something not as a co-conspirator statement, like these  
19       newspaper articles that are being offered for state of mind, I  
20       think they need some connection to my client in order to be  
21       able to show that --

22           THE COURT: That is the point --

23           MR. DRATEL: Or any specific Defendant, Your Honor,  
24       who is not in Dallas, because my client is in New Jersey and  
25       then in San Diego. So if it is found in somebody's desk in

1 Dallas, I don't see how that applies to his state of mind,  
2 unless they are connected in some way.

3 MS. CADEDDU: We are distinguishing that from the  
4 co-conspirator statements, Your Honor.

5 MR. DRATEL: That are not offering the newspaper  
6 article as a co-conspirator statement, a New York Times  
7 article.

8 THE COURT: He says they are not offering it for the  
9 truth, but to show state of mind.

10 MR. JONAS: Your Honor, I don't have so much of an  
11 issue if there is an instruction that this could be viewed by  
12 the jury for the Defendants' state of mind for those  
13 Defendants that may be aware of them.

14 In other words, this particular newspaper article from  
15 the New York Times that I say relates to the conversation at  
16 the Philadelphia meeting, well, the Defendant Mufid Abdulqader  
17 was in the Philadelphia meeting, so I don't think we can cut  
18 him out from that.

19 Newspaper articles that are found in the desk or the  
20 office of Ghassan Elashi that we are offering to show his  
21 state of mind, I agree. Give a limiting instruction. That  
22 should be held against Defendant Ghassan Elashi alone.

23 But I just want to make sure that we are not making a  
24 general instruction that applies to all exhibits when there  
25 shouldn't be.

1                   MS. MORENO: And Your Honor, the article in question  
2 is February of 1993. February of '93 is in the footnote that  
3 I oriented the Court to.

4                   THE COURT: I see that.

5                   MS. MORENO: The Philadelphia meeting is eight  
6 months later in October of 1993. It is a stretch to say that  
7 eight months later these gentlemen are talking about, without  
8 naming the article, without naming Judith Miller, that when  
9 they are talking -- whatever conversation they are having,  
10 they are referring to this article. So I think that the time  
11 is also something that the Court should focus on.

12                  THE COURT: All right.

13                  MS. CADEDDU: Well, and I also -- Mr. Jonas keeps  
14 saying that Mr. Abdulqader was at the Philadelphia meeting.  
15 We are going to contest that rather vigorously. He was not at  
16 that meeting. The translator who testified that he was there  
17 said he was 80 percent sure, but he wasn't positive so he  
18 didn't put his name on it. I mean, this is a huge issue.  
19 This is the first time I have ever heard that testimony. That  
20 did not happen at the first trial.

21                  So, you know, Mr. Jonas can claim that he was at the  
22 Philadelphia meeting. I know he wasn't. And that is going to  
23 be a huge bone of contention. I wanted to make sure the Court  
24 didn't take that as a given.

25                  MR. DRATEL: And it has been conceded by the

1       Government that Mr. El-Mezain was not present at the  
2       Philadelphia meeting.

3                   MR. JONAS: I am not sure there is anything I have  
4       to add on that. We are just going round and round.

5                   THE COURT: And we are not to the newspaper articles  
6       yet. It appears that you are willing to limit -- agree to  
7       some limiting instruction as to at least Mr. El-Mezain who  
8       wasn't there, or the newspaper articles that were found. Mr.  
9       Jacks is shaking his head no. It doesn't sound like you are  
10      in agreement to that.

11                  MR. JACKS: Judge, I think the newspaper article is  
12      relevant to show knowledge. The fact that they had it, you  
13      can infer that they saw it when it came out and they kept it  
14      for a reason.

15                  THE COURT: But you are saying they and --

16                  MR. JACKS: I understand.

17                  THE COURT: The specific objection is like if one  
18      was found in the desk of one of the Defendants.

19                  MR. JACKS: And I think it is reasonable to infer if  
20      one member of the conspiracy saw it and read it, that it was  
21      conveyed to the others.

22                  THE COURT: So you are not willing to concede a  
23      limiting instruction, then.

24                  MR. JACKS: No. Because they do in fact have  
25      conversations later where they talk about these articles. And

1       that proves the point that the fact that these articles are  
2       found in the possession of one of the co-conspirators, and the  
3       evidence shows that they talk about these articles among  
4       themselves, that the knowledge that it conveys to one  
5       co-conspirator, it is permissible to infer that other  
6       co-conspirators were made aware of those articles. Plus the  
7       fact that it is in the New York Times. That is a pretty  
8       widely circulated newspaper.

9           So the fact that these articles are imputed to show  
10       knowledge, I don't think you can cut it off and say that these  
11       other co-conspirators, therefore, didn't have any knowledge.  
12       I think that is a matter for the jury to discuss and to weigh  
13       and to decide.

14           MS. CADEDDU: Well, and Your Honor, again, when you  
15       are offering it as a co-conspirator statement it is one thing.  
16       When you are offering it to show state of mind, you need to  
17       show that there is a connection to show state of mind.

18           And I also want to express a concern about this  
19       monolithic "they." The Government is not going to offer any  
20       conversations by my client where he talks about any of these  
21       articles. There are two conversations they are offering.  
22       Both have to do with fundraising, volunteer fundraising trips  
23       that he took.

24           So, you know, I don't want to get swallowed up into this  
25       monolithic "they," because there isn't any evidence of that.

1 It is not appropriate.

2 MS. HOLLANDER: Your Honor, can I just make sure  
3 that we raised a 403 argument, because what I believe the  
4 reason the Government wants to introduce particularly the  
5 Judith Miller article is that it has a lot of information  
6 about someone who was arrested in Israel that they are going  
7 to try to link -- And the jury cannot decipher what is true  
8 and what isn't. And the unfair prejudicial effect of these  
9 newspaper articles, particularly that one, seriously outweighs  
10 any probative value it has, and I think you will see that when  
11 you read it.

12 THE COURT: All right.

13 Mr. Cline?

14 MR. CLINE: Your Honor, one other limiting  
15 instruction issue with the newspaper articles. Of course, we  
16 object to their coming in at all on hearsay and 403 grounds,  
17 and so on.

18 If they do come in to show notice or knowledge or  
19 something like that, we would ask that the jury be instructed  
20 that they are not being admitted for the truth, but solely for  
21 whatever purpose Your Honor decides to admit them.

22 MR. DRATEL: And Your Honor, I think Mr. Jacks'  
23 construction of the law of inference is actually in reverse of  
24 what it ought to be. You don't get an omnibus inference that  
25 the Defense essentially has to disprove; that the Government

1 has to connect evidence in order to make evidence reasonable.

2 THE COURT: Okay. And I may need you to be more  
3 specific at some point, Mr. Jacks, when you get to it. You  
4 say there are phone conversations, so that is some evidence  
5 that would with a link. But I think you need some specific as  
6 to who are the parties to those phone conversations. And I  
7 think that is the point Ms. Cadeddu makes is that her client  
8 is not going to be involved in any of those conversations, so  
9 you are trying to impute knowledge to him.

10 MR. JACKS: Your Honor, I will find out and make  
11 that known to the Court which exhibits include those  
12 conversations.

13 THE COURT: And who the parties are that are  
14 discussing those articles?

15 Is the jury here?

16 Was there anything else on the HLF and InfoCom search  
17 documents that we needed to address, besides those newspaper  
18 articles? Ms. Moreno or anyone else?

19 MS. MORENO: Not at this point, Your Honor.

20 THE COURT: Those, then, the remainder of those are  
21 admitted pursuant to the earlier rulings.

22 Anything else we need to address?

23 We will be in recess until we get the jury --

24 MR. DRATEL: The first part of the El-Mezain  
25 documents really has to do with collateral estoppel. But the

1 second part, there is one specific conversation. I don't know  
2 if the Court wants to hear argument on that. I don't know the  
3 time of when you think you are going to get to that, this  
4 morning, or --

5 MR. JONAS: I don't know what conversation you are  
6 referring to.

7 MR. DRATEL: No. 27 or 12, however you denominate  
8 it.

9 MR. JONAS: That won't be this morning.

10 THE COURT: What was the issue with that one?

11 MR. DRATEL: This was a conversation that -- Well,  
12 we have a number of objections--403, collateral estoppel. I  
13 think the collateral estoppel aspect of this is --

14 THE COURT: And do you know right off which  
15 particular exhibit that is?

16 MR. DRATEL: Yes. It is El-Mezain Wiretap No. 27,  
17 but also may be called No. 12.

18 MR. JONAS: It is not 27.

19 MR. DRATEL: No. 27 is the entire conversation.

20 MR. JONAS: No. 27 is a misprint. It is No. 12.

21 MR. DRATEL: So it is 12. El-Mezain Wiretap No. 12.

22 THE COURT: And I have No. 27 also listed. So that  
23 should be No. 12?

24 MR. JONAS: No. 12, Your Honor.

25 THE COURT: All right. And then your particular

1 objection on that.

2 MR. DRATEL: Mr. El-Mezain has been acquitted of all  
3 money laundering charges, and that is the inference the  
4 Government wishes to draw from that conversation, which is  
5 totally separate. It also raises the prospect of prejudicial  
6 variance, and even ultimately perhaps an amendment in the  
7 indictment because the specific allegations of money  
8 laundering in this indictment, which Mr. El-Mezain has been  
9 acquitted of, Mr. Odeh is part of that conversation as well.  
10 So I am sort of making that argument at the same time, which  
11 is that the money laundering is alleged to have been the  
12 payments by HLF to the institutions overseas. This gets into  
13 a totally separate issue which essentially could create  
14 another theory for the Government to argue money laundering,  
15 which wouldn't be proper, which is the notion of deposit  
16 structuring, which has nothing to do with the concealment that  
17 the Government is alleging or the transfers that the  
18 Government is alleging, which has to do with where it is  
19 going, not where it is coming from.

20 So it is completely outside the box of what these charges  
21 are, and creates a real danger of the jury being misled and  
22 confused.

23 THE COURT: Mr. Jonas?

24 MR. JONAS: Mr. Dratel's theory of our offer of  
25 proof is wrong. This is a conversation between the Defendants

1 Mohammad El-Mezain and Abdulrahman Odeh that occurred about a  
2 month or so after Hamas was designated initially as a  
3 terrorist organization. They talk about structuring the  
4 deposits of HLF's cash into the HLF bank account. They  
5 mention about how the accounts are being watched.

6 It is our position that they intend on structuring, or  
7 El-Mezain instructing Odeh to structure in order to conceal  
8 from the government the fact that they are receiving all this  
9 money. It is not a matter of the money laundering charges and  
10 where it is going to. It is a matter of how they are  
11 depositing their cash into their accounts right after Hamas is  
12 designated, and their belief that their accounts are being  
13 watched.

14 MR. DRATEL: But, Your Honor, that is -- It is not  
15 what the conversation says in toto. But also it is exactly  
16 what I am saying. They are alleging a separate money  
17 laundering mechanism, which is not charged, which is not what  
18 this case is about. This case is about where the money went  
19 to. The notion of some concealment of where the money is  
20 coming from, in other words, that contributions and their  
21 amounts, has nothing to do with this case or the charges.

22 The other thing is that the reference in the calls is  
23 that this is the way that this has always been done; that it  
24 has been a practice to break these up. And the Supreme Court  
25 case cited in our papers says you not only have to have an

1 intent to circumvent the reporting requirement, but have to  
2 know it is illegal. There is nothing in the conversation that  
3 would suggest that. So in that context it is not even really  
4 a bad act. It doesn't even constitute it, but it is being  
5 used for that inference, I think, in a way that would run  
6 afoul of 403, as well at the collateral estoppel.

7 They are talking about charges that Mr. El-Mezain has  
8 been acquitted on, not only with respect to collateral  
9 estoppel but also with respect to double jeopardy, because in  
10 effect they are trying to get him convicted on the basis of  
11 charges that he was already acquitted on.

12 THE COURT: I understand the argument.

13 Anything else you want to add?

14 MR. JONAS: Briefly, this is for concealment  
15 purposes. It goes to in total their actions in order to keep  
16 away from the government, which is consistent with other  
17 things they have done with the government--their behavior,  
18 their connection to Hamas, all of that.

19 THE COURT: I think it could go to show knowledge.  
20 But I haven't read the conversation. I will go back and take  
21 a look at that.

22 MR. JONAS: Your Honor, just one quick point. We  
23 have not received from Defense the exhibits they intend on  
24 showing to Agent Burns. I am not sure when we are going to  
25 get that. I am assuming it is closer to the time she is off

1       the stand. We may need another session like this.

2                 THE COURT: I suspect we will need more than one.

3       We may do another one this afternoon, and then another one in  
4       the morning if we need to, or at some point before we get to  
5       the documents.

6       When do you expect -- Of course, I guess she will be on  
7       direct for a number of days.

8                 MR. JONAS: It is possible she could be off direct  
9       by tomorrow the end of the day.

10                THE COURT: All right. Well, then, at some point if  
11       you will make sure you give your list of exhibits, then, to  
12       the Government so we can take those up, whether it be this  
13       afternoon or tomorrow morning.

14       Anything else? The jury is here.

15                MS. HOLLANDER: Your Honor, I don't believe we can  
16       give ours to the Government until we are finished with direct.  
17       We are not going to be able to give them our cross  
18       examination. We will give them to them as soon as she is off  
19       direct.

20                THE COURT: And why do you think you can't do that?

21                MS. HOLLANDER: For a number of reasons. One is we  
22       are not sure what they are until she finishes her direct.

23                Another is if we give them our exhibits -- You know, the  
24       witness isn't supposed to know what you are doing on cross,  
25       nor is the Government really, but certainly the witness is

1       not. And if we give them to them now, they just basically get  
2       an advantage of incorporating whatever it is that -- kind of  
3       getting a telescope of the cross.

4           We can do it, and we thought we were doing it the same  
5       way we did it during the first trial, which is that as soon as  
6       they finish their direct --

7           THE COURT: Except we have already had a trial here,  
8       so I didn't see there was a big surprise.

9           MS. HOLLANDER: Well, I think there may be some  
10       different exhibits. They may be exhibits being used  
11       differently. They are using exhibits differently.

12           THE COURT: But they are giving you notice.

13           MS. HOLLANDER: And they are using new exhibits.

14           THE COURT: Yes, but they are giving you notice.

15           MS. HOLLANDER: They are giving us notice, and we  
16       will give them notice as soon as she finishes direct, on the  
17       condition that they not show them to the witness, of course.

18           THE COURT: That is fine. But if they are not going  
19       to show them to the witness, then I don't see any reason why  
20       you can't give them to them sooner than that so that they can  
21       prepare their objections and we can have these hearings.

22           MS. HOLLANDER: If we know what they are.

23           THE COURT: And I can't accept that, counsel. I  
24       can't accept that you haven't prepared your case sufficiently  
25       to where you have some idea what your cross is going to be. I

1 know you don't start planning your cross after she testifies.

2 MS. HOLLANDER: We have some idea.

3 THE COURT: Of course.

4 MS. HOLLANDER: And I think that they know about.

5 THE COURT: They don't know that if you haven't told  
6 them, anymore than you knew exactly what they were going to  
7 put on unless they tell you. You have some idea from the last  
8 trial, but they don't know.

9 MS. HOLLANDER: Your Honor, obviously we will do  
10 what you require us to do.

11 THE COURT: That is what I am requiring you to do.

12 MS. HOLLANDER: But I think that it is really,  
13 frankly, from our perspective -- And I will let -- Ms. Moreno  
14 wishes to address that.

15 THE COURT: We will address that later. The jury is  
16 already here. We will get started.

17 Mr. Dratel, is there something else?

18 MR. DRATEL: There is something I would like to  
19 approach on for reasons that Your Honor will understand when I  
20 approach. It will take one minute.

21 THE COURT: Approach the bench.

22 (The following was had at the bench.)

23 MR. DRATEL: I didn't want a conference already this  
24 morning.

25 THE COURT: I didn't either.

1                   MR. DRATEL: Now I see the courtroom filling up, so  
2 I just wanted to raise this here for obvious reasons.

3                   The Court indicated, and I don't know whether the Court  
4 -- Thursday afternoon when we broke, the Court -- And I don't  
5 know whether you were talking about this case or other matters  
6 on the Court's docket when you said something about getting  
7 stuff done Wednesday, which is the day that we are off.

8                   THE COURT: That wasn't this conference that we held  
9 this morning, but these kinds of conferences.

10                  MR. DRATEL: Right. But regardless of how much  
11 progress is made in the next two days with respect these types  
12 of issues, I would object to proceeding Wednesday under any  
13 circumstances in the case because I am -- It is a religious  
14 holiday for myself, for my client, and I don't think he should  
15 be disadvantaged by our exercise of religious freedom, and I  
16 just sort of register a formal objection to proceeding  
17 tomorrow.

18                  THE COURT: You said one minute.

19                  MR. DRATEL: Okay.

20                  THE COURT: You are overruled.

21                  (The following was had in open court.)

22                  THE COURT: Bring in the jury.

23                  (Whereupon, the jury entered the courtroom.)

24                  THE COURT: Ladies and gentlemen of the jury, good  
25 morning. We are ready to proceed.

1           Mr. Jonas?

2           MR. JONAS: Thank you, sir.

3 Q. (BY MR. JONAS) Good morning, Agent Burns.

4 A. Good morning.

5 Q. Before we move to the next subject matter, I just wanted  
6 to briefly go over some of the questions and answers that we  
7 had on Thursday just to clarify some things. Okay?

8 A. Okay.

9 Q. We discussed a document Elbarasse Search No. 8. Do you  
10 recall that document?

11 A. I do. If you will give me one second. I have it.

12 Q. Okay.

13           MR. JONAS: If we can pull Elbarasse Search No. 8 on  
14 the screen.

15 Q. (BY MR. JONAS) You had me at a disadvantage because I  
16 don't have the exhibits with me. There are a lot of exhibits  
17 we are going to go through today, so I didn't bother bringing  
18 binders up like you have there.

19           In particular, this document discusses a trip taken by  
20 the Defendant Shukri Baker to the West Bank and Gaza. Can you  
21 tell us which page number that discussion is on.

22 A. That is on page 6, paragraph C.

23 Q. This discusses him going to the inside. And what is the  
24 inside again?

25 A. Inside the Palestinian territories in Israel.

1 Q. We also discussed a report of the trip which was marked  
2 as InfoCom Search No. 51. Do you recall that document?

3 A. I do.

4 Q. And we don't need to pull that one up. Who authored  
5 InfoCom Search No. 51?

6 A. If you give me one second.

7 Q. Sure.

8 A. This was a report from Shukri Abu Baker.

9 Q. And does that reference the trip that was discussed in  
10 Elbarasse Search No. 8?

11 A. It does.

12 Q. And there is also another report of a trip that was  
13 marked or in evidence as Ashqar Search No. 2. Do you recall  
14 that document?

15 A. I do.

16 Q. Do you know who authored that document?

17 A. I do not know who authored that document.

18 Q. Does that document relate in any way to the report  
19 authored by the Defendant Shukri Baker in InfoCom Search  
20 No. 51?

21 A. Yes, it does.

22 Q. How does it relate, based upon the exhibits you reviewed?

23 A. This document, the one we are referring to now, which is  
24 Ashqar Search No. 2, is a report of a trip in 1991 to the  
25 Palestinian territories by someone -- based on the content, by

1 someone within the Palestinian Committee. They were reporting  
2 on Hamas activities in the territories.

3 In that document, if you will turn to page 11 --

4 Q. Which exhibit is this? InfoCom Search No. 51?

5 A. Ashqar Search No. 2.

6 MR. JONAS: Ashqar Search No. 2, page 11.

7 THE WITNESS: Under Section K, the individual who  
8 wrote this is reporting on activities in the Gaza area, which  
9 is in the Palestinian territories.

10 Q. (BY MR. JONAS) And that is reflected in this document,  
11 the Gaza Sector?

12 A. Yes. At the top you will see where it says the south  
13 region and refers to the Gaza Sector. And throughout this it  
14 refers to the Movement, which is Hamas.

15 And under Section K, at the bottom if you will look, it  
16 says, "The brothers asked Dr. Al-Zahar to open a center for  
17 studies and research, and he approved that." Doctor Al-Zahar,  
18 as we identified last week, is Hamas leader Mahmoud Al-Zahar.

19 MR. JONAS: Your Honor, for the record I am going to  
20 hold up Demonstrative No. 17.

21 Q. (BY MR. JONAS) And he is here on this chart here?

22 A. The closest to you.

23 Q. Where I am pointing?

24 A. Yes. So this document is reporting that the brothers met  
25 with that individual to discuss opening a center for studies

1 and research. This document is based on a trip in 1991.

2 If you will turn back to Shukri Abu Baker's report from  
3 1991 and turn to -- that exhibit number is InfoCom Search  
4 No. 51. If you will turn to page 11 under "Gaza," Shukri Abu  
5 Baker reported that he met with Mr. Abu Khalid, Abu Nasser,  
6 and some other officials. They discussed with Mr. Abu Khalid  
7 the subject of building a research organization. Abu Khalid  
8 is the nickname for Hamas leader Mahmoud Zahar.

9 So the way I connected these two reports is that the  
10 individual who wrote Ashqar No. 2, the Hamas report, the  
11 Palestinian Committee member was actually reporting on Shukri  
12 Abu Baker's meeting with Hamas leader Mahmoud Zahar.

13 Q. Okay. Agent Burns, if you recall, when you testified on  
14 Thursday I showed you Hamas Charter No. 2, which is in  
15 evidence, and that is the Arabic version of the Hamas charter.  
16 Do you recall that?

17 A. I do.

18 Q. Okay. Who published that document?

19 A. The IAP.

20 Q. Did you find -- Where was that document found, if you  
21 recall?

22 A. That one was found at the home of Ismail Elbarasse.

23 Q. Do you have before you Hamas Charter No. 1, which is not  
24 in evidence?

25 A. I do not have the Hamas charters here.

1 MR. JONAS: Your Honor, one moment, please?

2 THE COURT: Yes.

3 Q. (BY MR. JONAS) I am referring to Hamas Charter No. 3.

4 MR. JONAS: And if I may approach, Your Honor?

5 THE COURT: Yes.

6 Q. (BY MR. JONAS) Where was that document found?

7 A. This document was found at the home of Ismail Elbarasse.

8 Q. And without going into the contents, what is it?

9 A. It is the English version of the Hamas charter.

10 MR. JONAS: Your Honor, at this time I would offer  
11 into evidence Hamas Charter No. 3.

12 THE COURT: Any objections beyond what we have had?

13 That is admitted.

14 Q. (BY MR. JONAS) Agent Burns, you testified based upon the  
15 Elbarasse search documents about a relationship between the  
16 Holy Land Foundation the Islamic Association of Palestine.  
17 Just to go back to that, what was the relationship between  
18 those two organizations, from the Elbarasse search documents?

19 A. Based on all the exhibits that we reviewed last week,  
20 they were members of the Palestine Committee whose job it was  
21 to support Hamas, according to the 1992 memorandum from the  
22 international Muslim Brotherhood.

23 MR. JONAS: And if we can quickly pull up Elbarasse  
24 Search No. 10 on the screen.

25 Q. (BY MR. JONAS) Do you see the HLF and IAP on this chart?

1 A. I do.

2 Q. And does that support your statement about what you made  
3 about the relationship between the HLF and the IAP?

4 A. It does. As we discussed on Thursday, the Central  
5 Committee was the Palestine Committee.

6 Q. Have you reviewed the Baker deposition that we discussed  
7 the other day?

8 A. Yes, I have.

9 Q. And in the Baker deposition does the Defendant Shukri  
10 Baker discuss the relationship between the HLF and the IAP?

11 A. He is asked about it.

12 MR. JONAS: If we can put page 5 of that deposition  
13 on the screen. If we can enlarge it.

14 Q. (BY MR. JONAS) Do you see where it says --

15 MR. JONAS: One moment, Your Honor.

16 Q. (BY MR. JONAS) Agent Burns, do you have deposition page  
17 64 and 65 in front of you?

18 A. I do.

19 Q. Okay.

20 MR. JONAS: We are trying to get it on the screen,  
21 Your Honor. I think because it is a Monday morning the  
22 computer is a little groggy.

23 And if you can enlarge the right hand column.

24 Q. (BY MR. JONAS) Can you read the question and the answer  
25 regarding the relationship between the HLF and the IAP?

1 A. I can. The question that the lawyer asked is, "Now, you  
2 understand" --

3 Q. Agent Burns, let me provide you my copy.

4 A. I will read it off the screen. "Are you aware of any  
5 relationship or affiliation of any sort between that entity  
6 IAP and HLF?"

7 Shukri Abu Baker's answer is, "No affiliation. But what  
8 do you mean by relationship? Can you itemize that?"

9 And the question, "Well, did you undertake any programs  
10 together, work together in -- in any fashion?"

11 Answer: "We had a business relationship with the IAP."

12 Question: "Okay. Can you describe for me in general  
13 terms the nature of that business relationship?"

14 Answer: "We advertised with their paper, and we used  
15 their graphic design services. There were invoices for that,  
16 and we had a contract to help us through their grass roots  
17 volunteers, help the Foundation through its grass root and  
18 volunteers to help dispense Holy Land Foundation literature  
19 and fund raising material."

20 Question: "I've seen some indication that -- somewhere  
21 that indicated that you were a member of an IAP advisory  
22 board."

23 Answer: "Yes."

24 Question: "What was -- What was the advisory board?"

25 Answer: "You know, we would meet once a year, just

1 discuss overall issues, strategies."

2 Q. That is fine. Agent Burns, has Shukri Baker discussed  
3 the HLF and IAP being part of the Palestine Committee in his  
4 deposition?

5 A. No, he does not.

6 Q. Was the Defendant Mohammad El-Mezain also deposed in the  
7 same lawsuit?

8 A. He was.

9 Q. And do you have his deposition before you?

10 A. I do.

11 Q. Okay.

12 MR. JONAS: Your Honor, at this time, subject to the  
13 discussion prior, I would offer into evidence the Defendant  
14 Mohammad El-Mezain's deposition.

15 MR. DRATEL: Your Honor, based on what Mr. Jonas is  
16 doing now, and subject to the other previous objections --

17 THE COURT: Give me that exhibit number again.

18 MR. JONAS: The exhibit is Exhibit El-Mezain  
19 deposition is the title of the exhibit.

20 THE COURT: That is admitted.

21 Q. (BY MR. JONAS) Agent Burns, could you turn to page 25?  
22 It is deposition page 25.

23 A. Okay.

24 MR. JONAS: I believe for purposes of putting it on  
25 the screen, it is page 5. If you could enlarge the top left

1 hand corner.

2 Q. (BY MR. JONAS) Starting with the question on line 2.

3 THE COURT: Counsel, what are the dates of these  
4 depositions? Has that been established?

5 Q. (BY MR. JONAS) For the record, the date of this  
6 deposition is what, Agent Burns?

7 A. The date of this deposition is September 10th, 2003.

8 Q. And the date of the Baker deposition?

9 A. January 30th, 2003.

10 Q. Okay. If you can read this page, please.

11 A. It says -- Mohammad El-Mezain's answer is, "You're  
12 right." Question: "The MAYA conferences that you're  
13 referring to, do you recall where those were held?"

14 Answer: "I Don't recall exactly what one of them."

15 Question: "Do you recall where whether any of them were  
16 in Kansas City?"

17 Answer: "I don't recall."

18 Question: "The MAYA conferences where you met Mr. Ahmad  
19 was either one of you a speaker at the conference?"

20 Answer: "No."

21 Question: "No? Have you had any personal dealings with  
22 Mr. Ahmad outside of the MAYA conferences --"

23 Answer: "No."

24 Question "-- you testified about."

25 Q. Let me interrupt you for a moment. Based upon Elbarasse

1     Search No. 10, is that the document that listed out the  
2     members of the Palestine Committee?

3     A.     Yes.

4     Q.     Who is Mr. Ahmad?

5     A.     Ahmed Yousef.

6     Q.     Continue please. And is Ahmad Yousef one of the  
7     individuals listed in the Palestine Committee document?

8     A.     He is. You will see him referenced both as Ahmed Yousef  
9     and Yousef Saleh.

10    Q.     Is the Defendant Mohammad El-Mezain also listed as a  
11    members of the Palestine Committee on that document?

12    A.     Yes, he is.

13    Q.     Please continue reading.

14    A.     Question: "Do you know a man by the name of Ismail  
15    Elbarasse?"

16           Answer: "Yes."

17           Question: "How is it you know Mr. Elbarasse?"

18           Answer: "One of the MAYA conferences also."

19           Question: "Do you recall where that MAYA conference was  
20    held?"

21           Answer: "I don't know. MAYA conferences, years, too  
22    long."

23           Question: "Do you recall roughly what the time frame was  
24    you met Mr. Elbarasse at a MAYA conference?"

25           Answer: "Is in the eighties."

1           Question: "How about Mr. Omar Ahmad? Can you tell me  
2 the time frame?"

3           Answer: "It is in the eighties."

4           Question: "So you met both of these gentlemen at MAYA  
5 conferences in the eighties?"

6           Answer: "Yeah."

7           And excuse me. I was referring to another part of the  
8 deposition. When he said Mr. Ahmad, he was referring to Mr.  
9 Omar Amhad not Ahmed Yousef.

10 Q. Who is Omar Ahmad?

11 A. He was a member of the IAP, also a member of the  
12 Palestine Committee.

13 Q. Is he on the same list of the Defendant El-Mezain in  
14 Elbarasse Search No. 10?

15 A. Yes, he.

16 Q. Agent Burns, was the Defendant Mohammad El-Mezain  
17 questioned about the relationship between the HLF and the IAP  
18 in his deposition?

19 A. Yes, he was.

20 Q. If you can turn to deposition page 87.

21           MR. JONAS: Which I believe is page 8 for the  
22 purposes of pulling it up on the screen. No, I was wrong.  
23 Take that down.

24 Q. (BY MR. JONAS) Agent Burns, just read on deposition page  
25 87 line 15 where the Defendant El-Mezain discusses a

1 relationship between the HLF and IAP.

2 A. Give me one second to see where it begins.

3 Q. Line 15 on page 87.

4 A. Okay. The question is, "Do you know of any relationship  
5 or dealings that any of you principals of the Holy Land  
6 Foundation had with the Islamic Association for Palestine in  
7 January of 1989 that would have caused IAP to know about the  
8 Occupied Land Fund and what it was doing?"

9 Answer: "No. Actually we -- You asked me before about  
10 the people of IAP, and I said to you we know these people but  
11 we don't have any relation with them, and they know that we  
12 have established Occupied Land Fund in that time. Not only  
13 the IAP actually, it became like, let me see, a custom with  
14 the Muslim organizations to recommend a good organization for  
15 the good cause."

16 Q. Again, Elbarasse Search No. 10, what does that document  
17 indicate the relationship between the IAP and HLF is?

18 A. That they were both organizations within the Palestine  
19 Committee working together.

20 MS. MORENO: Excuse me, Your Honor. I apologize for  
21 interrupting. With respect to both the Baker deposition and  
22 the El-Mezain deposition, we would ask on behalf of Mr. Elashi  
23 for a limiting instruction to the jury.

24 THE COURT: And we will come back to that later.

25 Go ahead.

1 Q. (BY MR. JONAS) Agent Burns, were there any -- Withdrawn.  
2 In the Elbarasse search documents, do you recall there being  
3 discussions about there being Palestine committees in other  
4 countries?

5 A. I do.

6 Q. Was there one document that discussed any of the  
7 Defendants traveling to another country in order to help  
8 establish the Palestine Committee?

9 A. Yes. That Occupied Land Fund report we discussed  
10 earlier.

11 Q. And what did that say, if you recall? If not, we can  
12 pull the exhibit up on the screen. And we discussed that on  
13 Thursday. Correct?

14 A. We did. And I have the exhibit here and I can tell you  
15 what it says. It was Elbarasse Search No. 8. And under that  
16 page 6 -- Do you --

17 MR. JONAS: If we can put it on the screen.

18 Q. (BY MR. JONAS) Which exhibit is this?

19 A. Elbarasse Search No. 8, page 6. No. 8 at the bottom  
20 under the Central Committee for charity work, it says,  
21 "Brother Ghassan," which is the Defendant Ghassan Elashi, "is  
22 currently on a visit to Britain representing the Fund in order  
23 to study the possibility of forming a Central Committee for  
24 charity work affiliated with the Apparatus in all the  
25 countries with the goal of coordination, exchange of

1       experience, and finding the best ways to increase donations,  
2       and to quickly respond to the request of the people inside."

3                 MS. HOLLANDER: Excuse me. Your Honor, I am just  
4       going to object to just repeating testimony here that the jury  
5       already heard on Friday, and object to repeating the  
6       testimony, exactly the same testimony.

7                 THE COURT: Overrule the objection. He is  
8       connecting it to a new exhibit. Go ahead.

9       Q. (BY MR. JONAS) Agent Burns, were there any phone  
10      conversations involving the Defendants where they discussed  
11      the Palestine Committee in another country?

12      A. Yes.

13      Q. Do you have before you HLF Wiretap No. 2? I know you  
14      have several binders you need to look through.

15      A. If you will bear with me. I have it.

16      Q. Okay. Who are the participants on that call?

17      A. The Defendant Shukri Abu Baker, Akram Mishal.

18      Q. Who is Akram Mishal?

19      A. He was an HLF officer. And Ramsey Abu Baker.

20      Q. What is the date of the call?

21      A. June 25th, 2001.

22                 MR. JONAS: Your Honor, at this time I would offer  
23      into evidence HLF Wiretap No. 2.

24                 THE COURT: And those have been admitted. Those  
25      ones we admitted this morning. Are you also offering 2-A?

1 MR. JONAS: Yes. Thank you, Your Honor.

2 Q. (BY MR. JONAS) Agent Burns, I don't want to play the  
3 whole call now. I think there are going to be portions that  
4 we will address later on. But if you can turn to page 4 of  
5 that transcript of HLF Wiretap No. 2.

6 Agent Burns, do you see the line where it starts "AK"?

7 A. I do.

8 Q. Who is that?

9 A. That is Akram Mishal, the HLF officer.

10 Q. And where it says "SH" underneath that, who is that?

11 A. That is Shukri Abu Baker.

12 Q. Okay.

13 A. The Defendant.

14 Q. I just want you to read this page and then some of the  
15 next page, if you would, please?

16 A. Okay. Akram Mishal says, "Hello."

17 Shukri says, "Peace be upon you."

18 "Upon you be peace."

19 "How are you?"

20 "Praise be to God. What's new?"

21 "Good."

22 "This guy, a person named Mahmoud Ghazal called me from  
23 Jeddah. Who is he?"

24 Akram Mishal says, "I believe he's from the Palestine  
25 Committee."

1           " Hmm. "

2           " When did he call you? Today?

3           " He left me a message today. "

4           " Where? At home or --"

5           " No, on the -- At the foundation. "

6 Q.       And the top of the next page.

7 A.       " Strange. Its possible that he left it and someone  
8 transferred it to you. "

9           " Hmm. "

10          " Yes, yes. Maybe I called him or I sent him a fax. "

11          " Yes. They are from the Palestine Committee in the world  
12 assembly. "

13          " Yes, yes. "

14          " Uh-huh. "

15          " Okay. Call him and see what he wants. I wanted to --"

16 Q.       That is good enough. That is fine.

17          Agent Burns, I want to move away to another subject, and  
18 I want to talk to you about the HLF money in the early years  
19 of the Holy Land Foundation's life. Okay?

20          Do you recall some of the Elbarasse documents talked  
21 about how much Holy Land Foundation raised in those early  
22 years and sent over to the West Bank and Gaza?

23 A.       Yes.

24 Q.       Did you review any records that talk about how much money  
25 was sent over to those areas?

1 A. I did.

2 Q. And I don't want to be that specific. I am just talking  
3 about any money that they sent out from their bank accounts at  
4 all.

5 A. Yes. I reviewed their bank account records from the bank  
6 account they held at NAIT.

7 Q. Did you review other records as well?

8 A. I did. I reviewed search warrant material, things like  
9 that.

10 Q. Generally, without getting into the description of  
11 specific items, can you just summarize what you reviewed, what  
12 it revealed?

13 A. Are you talking about a specific year or --

14 Q. 1988.

15 A. 1988. The financial documents from the bank accounts and  
16 the search warrant material, actually from the bank account I  
17 think pretty much solely, indicated that a majority of the  
18 HLF's money during that year was distributed to Mousa Abu  
19 Marzook, his associates, and other individuals and entities  
20 that were part of the Palestine Committee.

21 Q. Did you create a chart that summarizes these  
22 transactions?

23 A. I did.

24 Q. Do you have before you what has been marked as OLF 1988  
25 Disbursements?

1 A. I do.

2 Q. Is this chart based upon documents currently in evidence?

3 A. Yes.

4 Q. Would this chart aid the jury in understanding your  
5 testimony?

6 A. Yes, it will.

7 MR. JONAS: Your Honor, at this time I would offer  
8 into evidence OLF 1988 Disbursements.

9 MS. HOLLANDER: We have no objection, assuming it is  
10 accurate, Your Honor.

11 THE COURT: That is admitted.

12 MS. HOLLANDER: Actually I do have one objection  
13 which is remoteness, 1988.

14 THE COURT: That is overruled.

15 MS. CADEDDU: Is this a demonstrative?

16 THE COURT: No, ma'am. They are offering it --

17 MR. JONAS: As a 1006 summary chart.

18 THE COURT: OLF 1988 is admitted.

19 MR. JONAS: Can we put the first page on the screen,  
20 please?

21 Q. (BY MR. JONAS) Agent Burns, before we get into the  
22 substance of the transactions, I would like you just to  
23 explain to us how this chart is constructed.

24 A. Okay. The chart is constructed hopefully to make it easy  
25 to understand this mountain of bank records that we have.

1       The first column includes the date of the transaction.  
2       The next column indicates the source, where the payment in  
3       that transaction came from. In this chart in particular, all  
4       of the payments came from the Holy Land Foundation when it was  
5       known as the Occupied Land Fund.

6       Q.     Let me interrupt you as you go along. It says underneath  
7       the Occupied Land Fund "North America Islamic Trust." What is  
8       that?

9       A.     That is NAIT, the Muslim Brotherhood organization that we  
10      spoke about last week, and that is the entity through which  
11      the HLF held its initial bank account.

12      Q.     Okay. Continue.

13      A.     Under the next section which is entitled "Authorization,"  
14      on this chart it merely indicates whether or not the  
15      transaction was done with a wire transfer or a check or  
16      whether there was an expense voucher, and if on a particular  
17      transaction an individual was linked to the transaction. For  
18      example, if the Defendant Shukri Abu Baker requested the  
19      transfer, his name will appear in this column as well.

20                  The next column is the amount of the transaction. The  
21      following column is the destination. That is to whom the  
22      payment was made. And finally, the last column is the column  
23      for exhibit number, which tells you the exhibit number and  
24      specific page that you can go to and look at to see the actual  
25      item that represents what is noted on this chart.

1 Q. And in that particular column there is an I next to some  
2 of the page numbers and an S. What does that mean?

3 A. I represents the item, whether it be a check or expense  
4 voucher or something like that. S would indicate the actual  
5 statement.

6 And on this I would need to note that NAIT was not a  
7 traditional bank like we are used to seeing, so the records  
8 from NAIT appear different. There are a lot of handwritten  
9 records and the bank statements look different than what you  
10 would expect to see from a Bank of America, for example.

11 Q. When you look under authorization, just looking at the  
12 first one as an example where there is a check and the number,  
13 what does that number represent? Do you see 702648?

14 A. That would be like the transaction number.

15 Q. Okay. Or the check number?

16 A. The check number.

17 Q. Underneath that it says EXP voucher. What does that  
18 mean?

19 A. Expense voucher.

20 Q. Where do you get that from?

21 A. From the records themselves.

22 Q. Well, let's look at some of these transactions. We are  
23 on the first one. We see its destination to MAYA. Have we  
24 seen MAYA somewhere else in some of the documents already  
25 admitted?

1 A. We have. It was referenced on some of the documents that  
2 we looked at on Thursday indicating that it was part of the  
3 Muslim Brotherhood's organizations. If you will recall, the  
4 document that was in Arabic that had the last page attached to  
5 it with the list in English of the "organizations of our  
6 organizations the organizations of our friends," it was listed  
7 there. It was also listed on that chart that we saw of the  
8 Muslim Brotherhood's apparatuses, and Shukri Abu Baker's name  
9 was affiliated with it.

10 Q. Okay. Getting back to the first document you referenced  
11 that had the list of the Muslim Brotherhood organizations, to  
12 be clear, is that Muslim Brotherhood organizations in the  
13 United States?

14 A. That is correct.

15 Q. And on that same list was the HLF mentioned?

16 A. Yes, it was.

17 Q. Okay. The next transaction you see is a \$10,000 check to  
18 Yousef Salah. Do you know who Yousef Saleh is?

19 A. Yes. He is one of the members of the Palestine Committee  
20 who was a part of the United Association for Studies and  
21 Research, the UASR.

22 MR. JONAS: If we can pull up what is in evidence  
23 Secretary of State VA-1, please, page 2 of that document.  
24 Enlarge the bottom half, please.

25 Q. (BY MR. JONAS) What is this document again, Secretary of

1 State VA-1?

2 A. These are the articles of incorporation for the United  
3 Association for Studies and Research.

4 Q. And what is that organization again?

5 A. That was the -- We call it the UASR. It was listed on  
6 several of those documents you saw on Thursday, and is part of  
7 the Palestine Committee.

8 Q. So what does this identify Yousef Salah's role with the  
9 UASR?

10 A. On this part it lists him as a director.

11 MR. JONAS: If we can turn to page 3, please.

12 Q. (BY MR. JONAS) And we see that again his name as a  
13 director?

14 A. That is correct.

15 Q. Does this document also have Mousa Abu Marzook as an  
16 individual associated with the UASR?

17 A. From the earlier papers, yes, it does.

18 Q. We covered that last week. Correct?

19 A. We did.

20 MR. JONAS: If we can go back to the OLF 1988  
21 disbursements, please, page 1.

22 Q. (BY MR. JONAS) Agent Burns, how many pages is this  
23 chart?

24 A. Four pages.

25 Q. Do you know every recipient on there? Are you able to

1 identify every recipient?

2 A. No. There are some on here that I wasn't able to  
3 identify, but I know a lot of them.

4 Q. We see Fawaz Mushtaha, who is receiving a \$20,000 wire on  
5 April 15th, 1988. Do you see that document?

6 A. I do.

7 MR. JONAS: Why don't we pull up NAIT Exhibit page  
8 5, which references the supporting document for that  
9 transaction.

10 Q. (BY MR. JONAS) Do you see that document before you,  
11 Agent Burns?

12 A. I do.

13 Q. What is that?

14 A. This is a request for a wire transfer to Fawaz Mushtaha  
15 for \$20,000. And it is noted at the bottom, if you will look,  
16 it says "customer account, Occupied Land Fund."

17 Q. Who was Fawaz Mushtaha?

18 A. He was the Palestine Committee member whose yard the  
19 videotapes were found in.

20 Q. Is he also in the band?

21 A. He is.

22 Q. Okay.

23 A. Or was.

24 Q. Going down on this -- Staying with the same page, do you  
25 recognize any other members of the Palestine committee on the

1 document you already discussed?

2 A. On the disbursement schedule on page 1?

3 Q. Yes.

4 A. Yes. I think it is not on the screen yet.

5 MR. JONAS: Pull up 1988 OLF Disbursements.

6 THE WITNESS: The person listed after Fawaz Mushtaha  
7 is Hamas leader Mousa Abu Marzook.

8 MR. JONAS: If we can turn to the second page of  
9 this document.

10 Q. (BY MR. JONAS) And do you see there is a transaction to  
11 an individual named Nadia Elashi?

12 A. Yes.

13 Q. And if we can -- Who is Nadia Elashi, if you know?

14 A. She is the wife of Hamas leader Mousa Abu Marzook and the  
15 cousin of the Defendant Ghassan Elashi.

16 Q. Okay.

17 MR. JONAS: If we can turn to the third page,  
18 please.

19 Q. (BY MR. JONAS) Do you see there is \$50,035 wire to a  
20 company called K&A Overseas Trading?

21 A. Yes. There are a number of those transactions on this  
22 page to K&A.

23 Q. Did you create a sort of sub chart to K&A Trading?

24 A. I did.

25 Q. We will get to that in just a moment.

1           Did you also create a summary chart for the 1989 OLF or  
2 HLF Disbursements.

3       A. I did.

4       Q. And do you have that before you?

5       A. I do.

6       Q. What is that sub chart -- What is that chart based upon?

7       A. It is a summary of the HLF disbursements in the year  
8 1989, its second year of operation.

9       Q. And do these come from the NAIT records as well, like the  
10 prior chart?

11      A. Yes.

12           MR. JONAS: Your Honor, at this time I would offer  
13 into evidence Government's exhibit OLF 1989 Disbursements.

14           THE COURT: Same objections?

15           MS. HOLLANDER: Same objections, Your Honor.

16           THE COURT: Those are overruled, and that is  
17 admitted.

18           MR. JONAS: If we can pull that on the screen,  
19 please, page 1.

20       Q. (BY MR. JONAS) Agent Burns, do you see that before you?

21      A. I do.

22       Q. All right. Do you see the second transaction on that  
23 screen, January 23rd, 1989?

24      A. I do.

25       Q. You testified Nadia Elashi is Mousa Abu Marzook's wife?

1 A. That is correct.

2 MR. JONAS: If we can pull up the NAIT records, page  
3 37.

4 Q. (BY MR. JONAS) What is that item on the screen?

5 A. That is a check from NAIT out of the Occupied Land Fund's  
6 account to Nadia Elashi for \$10,000 on January 23rd, 1989.

7 Q. During the course of your investigation, did you come  
8 across anything indicating whether Nadia Elashi was a charity  
9 or needy person?

10 A. No, I did not.

11 Q. Going back to the 1989 disbursements, please, do you see  
12 there are payments made to the Islamic Center of Gaza?

13 A. Yes.

14 Q. Did you create a sub chart of those payments as well?

15 A. I did.

16 Q. How much money was paid out? If you go to the third  
17 page.

18 A. In 1989, approximately \$956,705.

19 Q. Did you come across anything in the documents that  
20 indicated how much HLF claimed to have made or taken in  
21 donations in 1988 and '89?

22 A. I found some documents in English that indicated what  
23 they said they made in those two years.

24 Q. Do you have HLF Search No. 7 before you?

25 A. I do.

1 Q. Okay. Does that document indicate how much was received  
2 by the HLF in these early years?

3 A. Yes.

4 MR. JONAS: Your Honor, at this time I would offer  
5 into evidence HLF Search No. 7.

6 THE COURT: That is admitted from this morning.

7 MR. JONAS: If we can put that on the screen,  
8 please.

9 Q. (BY MR. JONAS) Does this indicate how much money the HLF  
10 made in 1988?

11 MR. JONAS: If we can enlarge the middle half,  
12 please?

13 Q. (BY MR. JONAS) I am sorry. Before we do that, what is  
14 the document entitled?

15 A. This document, which came from the HLF -- one of the  
16 computers in the HLF offices, was originally in English and is  
17 titled "The Holy Land Foundation: A story of growth and  
18 prosperity."

19 MR. JONAS: If we can enlarge the middle half where  
20 it says "Income."

21 Q. (BY MR. JONAS) How much income did they receive in 1988?

22 A. The stated income here is \$300.

23 Q. And how about 1989?

24 A. \$400.

25 Q. Did you come across any other documentation that

1 indicates how much money they may have received in 1989?

2 A. I did.

3 Q. Do you have before you HLF Search No. 8?

4 A. I do.

5 Q. Okay. Does that document indicate income from the HLF?

6 A. It does.

7 MR. JONAS: Your Honor, at this time I would offer  
8 into evidence HLF Search No. 8.

9 THE COURT: And that is admitted.

10 MR. JONAS: If we can put the first page on the  
11 screen, please.

12 Q. (BY MR. JONAS) For the year 1989 how much -- Well,  
13 withdrawn. What does this document purport to be?

14 A. It is an IRS Form 8734 that was found at the HLF's Dallas  
15 office, and it says "support schedule for advance ruling  
16 period." It basically contains records regarding income for  
17 the Holy Land Foundation between 1989 and 1993.

18 Q. Agent Burns, does it have a date on the top right hand  
19 side?

20 A. It does. April 1st, 1994.

21 Q. Do you know -- You are not an IRS agent. Right?

22 A. No, I am not.

23 Q. Do you know what the purpose of this form is?

24 A. No, I don't.

25 Q. Outside of seeing this document itself, have you studied

1 these forms?

2 A. I have not.

3 Q. Line 1 says "Gifts, grants, and contributions received."

4 How much do they indicate in this document that they received  
5 in 1989?

6 A. \$210,275.

7 Q. Do you have -- Did Shukri Baker ever publicly say how  
8 much they received in 1989?

9 A. Yes, he did.

10 Q. Okay. Do you have before you what is marked as Baker  
11 Declaration?

12 A. I do.

13 Q. And without getting into details, what is Baker  
14 Declaration?

15 A. This is a written sworn statement by Shukri Abu Baker to  
16 a federal court.

17 Q. Part of a lawsuit?

18 A. It is.

19 MR. JONAS: Your Honor, at this time I would offer  
20 into evidence Baker Declaration.

21 MS. HOLLANDER: Nothing beyond, Your Honor.

22 THE COURT: All right. That is admitted.

23 MR. JONAS: If we can put page 2 on the screen,  
24 please.

25 Q. (BY MR. JONAS) Agent Burns, in this item how much is

1 Shukri Baker saying HLF took in for 1989 or 1990, at least?

2 A. And just for reference, the document is dated April 4th,  
3 2002, and on page 2, no. 13, it says, "Because...has taken our  
4 records, I am providing many of the financial and other  
5 details from memory. During our first year of fundraising  
6 ending in 1990, we raised approximately \$700,000. Because the  
7 Intifada was going on in Palestine, we focused our charity on  
8 orphans, food, and aid to hospitals."

9 Q. So he is saying 1990 was their first year of fundraising?

10 A. That is what he says in this sworn statement.

11 Q. In the 1989 OLF Disbursements, how much did the OLF  
12 disburse again?

13 A. To be accurate, let me check. In 1989, \$956,705.

14 Q. Did you come across any item in your review of the search  
15 warrant material, or all the material, indicating where they  
16 would have gotten \$956,000 from?

17 A. Not other than -- No.

18 Q. We talked a moment ago about these charts I asked you,  
19 charts that came from the 1988 and 1989 disbursements.

20 A. Yes.

21 Q. Do you recall that?

22 A. I do.

23 Q. Okay. We saw on one of the charts were payments to --  
24 Correct me if I am wrong. On one of the charts do we see  
25 payments to an organization known as the Islamic Center of

1       Gaza?

2       A.     Yes. That was the 1989 disbursement chart.

3       Q.     And do you know what the Islamic Center of Gaza is?

4       A.     Yes, I do.

5       Q.     Have you seen anything in any of the search warrant  
6 material of the HLF that indicates what that entity or  
7 organization is?

8       A.     Yes.

9       Q.     Do you have before you HLF Search No. 108?

10      A.     I do.

11      Q.     What is that item?

12      A.     This is a Middle East Affairs Journal from the summer of  
13 1996 published by the UASR found at the Holy Land Foundation.

14      Q.     And does this Middle East Affairs Journal indicate  
15 anywhere anything about the Islamic Center for Gaza?

16      A.     It does.

17                    MR. JONAS: Your Honor, at this time I would offer  
18 into evidence HLF Search No. 108.

19                    THE COURT: And that is admitted.

20      Q.     (BY MR. JONAS) Agent Burns, if you can turn to page 105  
21 of this document.

22      A.     I have it.

23      Q.     Do you see -- On the top of 105, what does it say about  
24 the Islamic Center of Gaza?

25      A.     It says --

1 Q. If you can read --

2 A. I am sorry. I have too many binders. It says, "In order  
3 to manage the Palestinian Brotherhood's daily activities,  
4 however, Yassin established al-Mujamma' al-Islami (The Islamic  
5 Center) in Gaza. He served as its secretary general until  
6 1984. The Center eventually coordinated the activities of all  
7 organizations administered by the local Brotherhood."

8 Q. Is the word in brotherhood in caps?

9 A. It is.

10 Q. Indicating it is an entity?

11 A. Yes.

12 Q. And let me just show you again Demonstrative No. 17. It  
13 says Yassin. Who is Yassin?

14 A. The founder and former spiritual leader of Hamas; the one  
15 in the middle on the top.

16 Q. Sheikh Ahmed Yassin?

17 A. That is correct.

18 Q. By the way, does this article identify any other member  
19 of Hamas we just saw on the chart, Demonstrative No. 17? And  
20 to make it easier for you, I will direct your attention to  
21 page 106, the bottom half.

22 A. It does.

23 Q. And that particular paragraph --

24 MR. JONAS: Can we get the elmo?

25 Q. (BY MR. JONAS) Do you see what the title of that

1       particular section of this article is?

2       A.     I do.

3       Q.     What is that?

4       A.     "Hamas."

5                  MR. DRATEL: I just object on hearsay grounds, Your  
6 Honor, this journal.

7                  THE COURT: That has been admitted. That has been  
8 overruled and that is admitted. That is HLF Search No. 108?

9                  MR. JONAS: Yes.

10                 THE COURT: That has been admitted.

11                 MS. CADEDDU: This would be one of the documents I  
12 would request a limiting instruction on.

13                 MR. DRATEL: Yes.

14                 THE COURT: All right. Go ahead.

15       Q.     (BY MR. JONAS) Agent Burns, who does can it identify as  
16 other members of Hamas, or the brotherhood as it says?

17       A.     It identifies -- Under the section, the second paragraph,  
18 you will see where it begins, it says, "The Brotherhood began  
19 developing a strategy for dealing with the situation. These  
20 were Sheikh Ahmed Yassin" -- The person on the top the middle.

21                 MR. JONAS: For the record, Your Honor, I am holding  
22 up Demonstrative No. 17 again.

23                 THE WITNESS: Dr. Abdel Aziz Rantisi.

24       Q.     (BY MR. JONAS) Is that the individual I am pointing to  
25 on Demonstrative No. 17?

1 A. It is.

2 Ibrahim al-Yazuri.

3 Q. I don't see him on the chart.

4 A. He is not on the chart.

5 Salih Shihada.

6 Q. Also not on the chart.

7 A. No. Isa al-Nashar, Muhammad Shama'a, and Abd al-Fattah  
8 Dukhan.

9 Q. Getting back to the Islamic Center of Gaza, Agent Burns,  
10 did you find anything else that identifies what this  
11 organization is within the search marked material you  
12 reviewed?

13 A. Yes.

14 Q. Do you have before you what has been marked as InfoCom  
15 Search No. 28?

16 A. I do.

17 Q. What is that item?

18 A. This was a manual from InfoCom which discusses the  
19 Islamic Center of Gaza, along with a number of other zakat  
20 committees.

21 Q. Is there a page number that discusses the Islamic Center  
22 of Gaza?

23 A. Yes.

24 MS. HOLLANDER: What was the number of this exhibit?

25 MR. JONAS: InfoCom Search No. 28.

1           Your Honor, at this time I would offer into evidence  
2 InfoCom Search No. 28.

3           THE COURT: And that is admitted.

4 Q. (BY MR. JONAS) Agent Burns, if you turn to page 98 of  
5 that exhibit.

6 A. I have it.

7 Q. What does it say about the Islamic Center of Gaza?

8 A. It says, "The Islamic complex"--which is the same thing  
9 as the Islamic Center; the Arabic name is al-Mujamma'  
10 al-Islami and can be translated both ways--"was founded in  
11 1973 by a group of Muslims led by Mujahid Sheikh Ahmed  
12 Yassin."

13 Q. That is the same individual we pointed out on the chart  
14 as being the leader of Hamas?

15 A. That is correct. And some of the names below were some  
16 of the names that were identified in the Middle Eastern  
17 Affairs Journal that we just looked at.

18 Q. Okay. Agent Burns, did you create some sort of a  
19 mini-chart or summary chart for payments to the Islamic Center  
20 of Gaza from the HLF?

21 A. Yes.

22 Q. Do you have before you a chart that is marked as Payments  
23 To IC/Gaza?

24 A. I do.

25 Q. Is that based upon records already admitted into

1 evidence, as well as other bank records?

2 A. Yes. It is based on, as you said, records that have  
3 already been admitted and a few additional bank records.

4 Q. Okay.

5 MR. JONAS: Your Honor, at this time I would offer  
6 into evidence the chart marked as Payments To IC/Gaza.

7 MR. DRATEL: One moment, Your Honor.

8 THE COURT: All right.

9 MR. DRATEL: Just as to time frame, Your Honor.

10 THE COURT: Do you want to establish a time frame?

11 MR. DRATEL: The information -- In other words --

12 Q. (BY MR. JONAS) Agent Burns, when is the first  
13 transaction between the Holy Land Foundation and the Islamic  
14 Center of Gaza?

15 A. 1989.

16 Q. When is the last transaction?

17 A. The last transaction on the chart is July 20th, 1994.

18 Q. Okay.

19 THE COURT: And that is document --

20 MR. JONAS: Payments to IC, which stands for Islamic  
21 center /Gaza.

22 THE COURT: That is admitted.

23 Q. (BY MR. JONAS) And Agent Burns, you said this is based  
24 upon just not the NAIT records. Is that correct? But other  
25 records as well?

1 A. That is correct.

2 MR. JONAS: Your Honor, for the record I am going to  
3 offer into evidence the other supporting documentation to this  
4 chart, and I will go through them.

5 Q. (BY MR. JONAS) Agent Burns, what is HLF Bank Account No.  
6 3?

7 A. That is one of the HLF's bank accounts.

8 Q. Okay.

9 MR. JONAS: Your Honor, at this time I would offer  
10 into evidence HLF Bank Account No. 3.

11 MR. DRATEL: Same objection, Your Honor.

12 THE COURT: Do you have several of those you are  
13 going to do?

14 MR. JONAS: Yes.

15 THE COURT: Just Ask them all and then offer them  
16 all at once.

17 Q. (BY MR. JONAS) HLF Search No. 42, what is that?

18 A. It is A document seized in the HLF search warrant that  
19 relates to this chart.

20 Q. Are those documents pertaining specifically to the  
21 payments to the Islamic Center of Gaza?

22 A. Yes.

23 Q. InfoCom Search No. 20, what is that?

24 A. That is a document that was seized from the InfoCom  
25 search warrant that relate to transactions in this chart.

1 Q. Okay. Payments between the Holy Land Foundation and the  
2 Islamic Center of Gaza?

3 A. It says the Islamic Society here, but.

4 Q. HLF Foreign Account No. 1, what is that?

5 A. That was one of the HLF's foreign bank records, bank  
6 account that it held in a foreign country.

7 Q. Okay.

8 THE COURT: What was the number?

9 MR. JONAS: HLF Foreign Account No. 1.

10 Q. (BY MR. JONAS) And HLF Search No. 108?

11 THE COURT: You did that one already.

12 MR. JONAS: You are right. I am sorry, Your Honor.

13 Q. (BY MR. JONAS) And finally InfoCom Search No. 28?

14 THE COURT: You have done that one as well.

15 MR. JONAS: Thank you, sir.

16 So I offer into evidence HLF Bank Account No. 3, HLF  
17 Search No. 42, InfoCom Search No. 20, HLF Bank Account No. 1,  
18 and HLF Foreign Bank Account No. 1.

19 MR. DRATEL: Same objection, Your Honor.

20 THE COURT: Okay. And those are overruled, and  
21 those documents are admitted.

22 Q. (BY MR. JONAS) Agent Burns, before we get into the  
23 substance of this chart, Islamic Center of Gaza, did you  
24 assist in creating a chart that just lists out all the bank  
25 accounts that are going to be referred to in this case?

1 A. Yes.

2 Q. Would that chart aid the jury in understanding your  
3 testimony?

4 A. It would.

5 Q. Okay.

6 MR. JONAS: Your Honor, at this time --

7 Q. (BY MR. JONAS) I don't know if you have it before you.

8 MR. JONAS: May I have one moment, Your Honor?

9 THE COURT: Go ahead.

10 Q. (BY MR. JONAS) Agent Burns, let me show you what has  
11 been marked as I believe it is Bank Accounts. Is this the  
12 chart you are referring to?

13 A. Yes.

14 MR. JONAS: Your Honor, I offer into evidence as a  
15 1006 summary the chart marked Bank Accounts, and we have a  
16 smaller version as well.

17 THE COURT: Counsel?

18 MR. WESTFALL: We are fine with it, Your Honor.

19 MS. HOLLANDER: No objection.

20 THE COURT: That summary chart styled Bank Accounts  
21 is admitted.

22 Q. (BY MR. JONAS) Agent Burns, I think we will keep this up  
23 there since we are going to be referring to other exhibits as  
24 well.

25 MS. HOLLANDER: I can't see the witness, Your Honor,

1 is the problem.

2 THE COURT: And feel free to move, Ms. Hollander,  
3 and all counsel, if you need to move.

4 MR. JONAS: Okay. If we could pull up the chart  
5 Payments To IC/Gaza, if we have that.

6 Q. (BY MR. JONAS) Agent Burns, let's look at the first  
7 transaction, April 26, 1989.

8 MR. JONAS: And if we could pull up NAIT record page  
9 176.

10 Q. (BY MR. JONAS) Okay. Who authorized this transaction to  
11 the Islamic Center of Gaza?

12 A. If you will look at the bottom, it says "withdrawal  
13 requested by brother Shukri Abu Baker." That would be the  
14 Defendant.

15 MR. JONAS: Okay. If we can look at NAIT record  
16 page 74, which is another one of these transactions.

17 Q. (BY MR. JONAS) Who authorized this transaction to the  
18 Islamic Center of Gaza?

19 A. The bottom section under withdrawal requested by brother  
20 Mohd. Mezain and brother Shukri.

21 Q. Who is Mohd. Mezain?

22 A. It is like a shortened form for Mohammed, which would be  
23 the Defendant Mohammad El-Mezain. And Shukri would be the  
24 Defendant Shukri Abu Baker.

25 Q. How much is this transaction for?

1 A. I believe it said \$50,000.

2 Q. Your chart reflects a transaction of \$50,035. Do you  
3 know what the \$35 would have been for?

4 A. Likely for wire transfer fees.

5 MR. JONAS: If we can look at NAIT page 103, please.

6 Q. (BY MR. JONAS) This is transaction dated September 21st,  
7 1989 for \$100,000, not including the \$35 fee. Who authorized  
8 this transaction?

9 A. If you will look at the bottom, it says "withdrawal  
10 requested by brother Abu Ibrahim," which that is the nickname  
11 for the Defendant Mohammad El-Mezain.

12 MR. JONAS: If we can look HLF Bank Account No. 3,  
13 please, page 7.

14 MS. HOLLANDER: Excuse me, counsel. Have these  
15 documents been introduced?

16 MR. JONAS: Yes, they have. I just introduced some  
17 of these just now.

18 Q. (BY MR. JONAS) Can you make out -- Is this also to the  
19 Islamic Center?

20 A. It is. That is the name that I referred to earlier  
21 al-Mujama'a al-Islami. That is the written Arabic that  
22 translates into the Islamic Center or the Islamic Complex of  
23 Gaza.

24 Q. And we saw that in the book HLF Search No. 108?

25 A. That is correct.

1 Q. Do you see who authorized or who signed this check?

2 A. This one is signed by Ghassan Elashi. It is a little bit  
3 dark on my screen, but you can see it at the bottom there.

4 Q. You recognize his signature?

5 A. I do.

6 Q. What is the date of this check?

7 A. June 20th, 1990.

8 Q. And how much money?

9 A. \$25,000.

10 MR. JONAS: If we can go back to the chart Payments  
11 To IC/Gaza, please, page 2.

12 Q. (BY MR. JONAS) Agent Burns, do you see the transaction  
13 on June 28th, 1994?

14 A. I do.

15 Q. Okay. This says "wire, Haitham Maghawri." Who is that?

16 A. He was also an HLF officer.

17 Q. You see this transaction has \$45,000/\$8,000. Can you  
18 explain that, please?

19 A. In the later years some of the larger wires were sent  
20 from the HLF offices here to bank accounts over there --

21 Q. Let me stop you for a moment. I am sorry. You mentioned  
22 earlier that some of the records you reviewed for this chart  
23 was HLF Foreign Account No. 1.

24 A. That is correct.

25 Q. Okay. Looking at the chart Bank Accounts, I don't know

1 if you can -- Can you see this chart? Can you see where my  
2 finger is? It says HLF Foreign Account No. 1?

3 A. I do.

4 Q. What bank was this account at?

5 A. The Bank of Palestine.

6 Q. Do you know where that account was located?

7 A. In the Palestinian territories.

8 Q. West Bank or Gaza?

9 A. I believe it was in Gaza, but I am not positive.

10 Q. Okay. Please go ahead and finish your explanation of  
11 this transaction?

12 A. So a large wire would go from the HLF account here to the  
13 HLF's foreign accounts, and from there money would be  
14 disbursed to different parties.

15 Q. Okay. How were you able to determine that \$8,000 of this  
16 \$45,000 went to the Islamic Center of Gaza?

17 A. By looking at the underlying records, both search warrant  
18 and bank records, to see who the ultimate recipient was.

19 Q. And you see under this column for the exhibit it says  
20 InfoCom Search No. 20. So if someone went to those words  
21 contained within InfoCom Search No. 20, would they be able to  
22 ascertain out of that \$45,000 total wire \$8,000 was meant for  
23 the Islamic Center of Gaza?

24 A. That is correct.

25 Q. Are we going to see transactions like this throughout the

1 charts that you will testify about?

2 A. Yes. In the mid to late '90s you will see a lot of  
3 those.

4 Q. The transaction underneath that dated July 15th, 1994, is  
5 a similar set-up, the \$21,000 and it says/ILS \$39,000?

6 A. Yes.

7 Q. What is the ILS?

8 A. It stands for Israel shekels as opposed to U.S. dollars.

9 Q. If we don't see ILS, then what denomination are all these  
10 other denominations in?

11 A. U.S. dollars.

12 Q. Do you see the column right next where it says  
13 "Destination payment to Ibrahim Al Yazouri, Director of  
14 Islamic Council"? Why is that there and in bold?

15 A. That is the ultimate recipient of the money, and he was  
16 the individual that we saw referenced along with Sheikh Ahmed  
17 Yassin in HLF Search No. 108.

18 Q. How do you know he is the ultimate recipient?

19 A. Based on the records that are referenced in that exhibit  
20 column.

21 Q. Would that be InfoCom Search No. 20, or one of the other  
22 items?

23 A. That is correct.

24 Q. If you turn to the last page, page 3, do you see there  
25 are two lines that say "Hamas designation SDT, 1/23/95, and

1 then Hamas designation FTO, 10/8/1997"?

2 A. I do.

3 Q. What does that mean?

4 A. On the financial schedules, and we have a number of them  
5 that we will be discussing, they are done chronologically.

6 And on all the charts we tried to note the dates of the  
7 designations of Hamas so that you could see which transactions  
8 occurred prior to and subsequent to those designations.

9 Q. In this instance, then, did the Holy Land Foundation send  
10 any money to the Islamic Center of Gaza after Hamas was  
11 designated?

12 A. I don't know the answer to that. I know that I could not  
13 link any money to the Islamic Center of Gaza.

14 Q. Based upon what you reviewed and what is in this chart?

15 A. Right. That is correct.

16 Q. There were no transactions post designation?

17 A. That is correct.

18 Q. Okay. The total amount sent is how much to the Islamic  
19 Center of Gaza?

20 A. \$733,245, plus \$56,100 Israeli shekels.

21 Q. You didn't convert that to dollars to include in the  
22 \$733,000 number?

23 A. It has not been converted because it was impossible to  
24 get a completely accurate conversion rate for the specific  
25 date of the transactions, so we just left it in Israeli

1       shekels.

2       Q.     Agent Burns, if you recall, on I believe it is the 1988  
3           or 1989 OLF Disbursement charts there were payments to an  
4           individual or organization known as K&A Trading.  Do you  
5           recall that?

6       A.     I do.

7       Q.     Did you create a chart just reflecting on those  
8           particular payments?

9       A.     Yes.

10      Q.     Do you have that chart before you?

11      A.     That is one that I do not have.

12            MR. JONAS: Your Honor, if I may approach?

13            THE COURT: Yes.

14            THE WITNESS: Thank you.

15      Q.     (BY MR. JONAS) Do you have that chart now?

16      A.     I do.

17      Q.     Okay.  Is that chart based upon items already in  
18           evidence?

19      A.     It is.

20      Q.     Would that chart aid the jury in understanding your  
21           testimony?

22      A.     It will.

23            MR. JONAS: Your Honor, at this time I would offer  
24           into evidence the exhibit marked as Payments to K&A Trading.

25            THE COURT: And those are admitted.  The reason I

1 say it is -- On your chart, you show two, K&A/Marzook and K&A  
2 Trading.

3 MR. JONAS: Correct. The K&A/Marzook we are going  
4 to get to in a moment. It is a separate chart.

5 THE COURT: So this is the other one?

6 MR. JONAS: Correct.

7 THE COURT: Okay. Trading, that is admitted.

8 MR. JONAS: If we can put that on the screen,  
9 please.

10 Q. (BY MR. JONAS) Agent Burns, when is the first wire  
11 transfer to K&A Overseas Trading?

12 A. September 1st, 1988.

13 Q. When is the last wire transfer?

14 A. October 27th, 1988.

15 Q. Basically a little under a two-month period?

16 A. That is correct.

17 Q. And in this two-month period, how much money did the HLF  
18 send to K&A Trading?

19 A. \$250,175.

20 Q. Is it safe to assume that the \$175 were wire transfer  
21 fees?

22 A. Yes.

23 Q. \$35 per wire?

24 A. That is correct.

25 Q. Do you see where it says --

1                   MR. JONAS: Let's just pull up NAIT page 150 that  
2 reflects a transaction of September 15th, 1988.

3                   Q. (BY MR. JONAS) Who authorized this transaction,  
4 according to this document on the screen?

5                   A. The Defendant Shukri Abu Baker.

6                   MR. JONAS: If we can scroll up a little bit,  
7 please?

8                   Q. (BY MR. JONAS) Where was the HLF sending the money to  
9 for these transactions to K&A Trading?

10                  A. The Banque De Paris in Switzerland.

11                  Q. I assume that is a bank.

12                  A. I am assuming. I don't speak French.

13                  Q. Neither do I. Did you, during the course of the  
14 investigation make a request, or did someone from the  
15 Department of Justice make a request to Switzerland to obtain  
16 those bank records?

17                  A. Yes.

18                  Q. Do you have before you what is marked as K&A Trading  
19 Account?

20                  A. I do.

21                  Q. And are those -- Is that the account where this money  
22 from the HLF was sent to?

23                  A. It is.

24                  MR. JONAS: Your Honor, at this time I would offer  
25 into evidence K&A Trading Account.

1                   THE COURT: Admitted.

2 Q. (BY MR. JONAS) Agent Burns, the fact it is called K&A  
3 Trading Account, does that mean it is not a trading account;  
4 it is a bank account? Just so we are clear for the record?

5 A. Are you talking about our exhibit name?

6 Q. Yes.

7 A. Yes, that is correct.

8 Q. There is only so much space you can fit --

9 A. On the little exhibit stickers. That is right.

10 Q. Okay. Agent Burns, how do you know that this is the same  
11 account that the money was sent to, that the HLF money was  
12 sent to?

13 A. Because the account number in these records is the same  
14 as the account number referenced in the NAIT records from the  
15 HLF.

16 Q. Okay. So if we can center on the middle, on the middle  
17 of this page, do you see where it says 110441?

18 A. I do.

19 Q. I am not going to make us jump back and forth between the  
20 documents, but is that number referenced on the wire transfer  
21 authorization we saw a moment ago from the NAIT records?

22 A. Yes.

23 Q. Okay. And that is how you match up the wire transfers to  
24 this particular account?

25 A. That is correct.

1 Q. Okay. Is there anywhere in this document that indicates  
2 who owns or operates K&A Overseas Trading?

3 A. Yes.

4 Q. Okay.

5 MR. JONAS: If we look to page 6 of this document,  
6 please.

7 Q. (BY MR. JONAS) Do you have any idea what language that  
8 is in?

9 A. It is not English.

10 Q. Okay. On the right hand side in the middle we see a  
11 name.

12 A. If we go to the next page, it is actually in English.

13 Q. Okay. Is that a translation, the next page?

14 A. Yes, it is.

15 MR. JONAS: Go to page 7, please.

16 Q. (BY MR. JONAS) Okay. What name do you see over there  
17 for this account holder?

18 A. Mr. Khairy H. Al-Agha, Jeddah, Saudi Arabia.

19 Q. Would it make sense that the K of K&A Trading, Khairy, A  
20 for Al-Agha, K-A?

21 A. I presume.

22 Q. Did you come across anything in the evidence you  
23 reviewed, including the documents we discussed, that identify  
24 who Khairy Al-Agha is?

25 A. Yes.

1                   MR. JONAS: If you will turn to Ashqar Search No. 1  
2 is. It is a document already in evidence.

3 Q. (BY MR. JONAS) Do you have that before you?

4 A. I do.

5 Q. Thursday when we talked about Ashqar Search No. 1, what  
6 did we focus on, what particular page?

7 A. We focused on page 4.

8 Q. Which was?

9 A. The important phone and fax numbers for the Palestine  
10 Section in America.

11 Q. And we looked at some of those names that matched up with  
12 the Palestine Committee names in the Elbarasse documents?

13 A. That is correct. We compared this to those lists.

14                   MR. JONAS: Let's go to page 5?

15 Q. (BY MR. JONAS) And what is the title of page 5?

16 A. Again, this is a translation. It says, "Important phone  
17 and fax numbers. Palestine Section outside America."

18 Q. Do you see Khairy Al-Agha's name there?

19 A. He is the first person listed.

20 Q. Do you see where it says Saudi Arabia? Did we see Saudi  
21 Arabia anywhere on the bank records of his that we looked at?

22 A. In the bank records on page 7 it was noted that he was in  
23 Jeddah, Saudi Arabia.

24 Q. Did you see his name anywhere else in any of the  
25 documents we discussed?

1 A. Yes.

2 Q. Do you have Marzook's Phonebook before you?

3 A. I do.

4 MR. JONAS: If we can pull up Marzook Phonebook,  
5 page 54, please.

6 Q. (BY MR. JONAS) Do you see -- Where do you see Khairy  
7 Al-Agha's name on the page?

8 A. The third name on the list says Dr. Khairy.

9 Q. How do you know that is Khairy Al-Agha?

10 A. Because if you look at the telephone numbers referenced  
11 to the side of his name, first 966 is the country code for  
12 Saudi Arabia.

13 Q. Okay.

14 A. But both of those numbers are the same phone numbers  
15 referenced in Ashqar Search No. 1.

16 Q. Okay. While we are talking about Khairy Al-Agha and  
17 Marzook, did you come across anything indicating that those  
18 two individuals had a relationship?

19 A. Yes.

20 Q. And what did you look at?

21 A. There were bank records taken from Ismail Elbarasse's  
22 home indicating a financial relationship between Marzook and  
23 Khairy Al-Agha.

24 Q. Did you create a chart reflecting that financial  
25 relationship?

1 A. Yes.

2 Q. Is the chart in the same format as these other charts we  
3 talked about?

4 A. It is.

5 Q. Do you have before you an exhibit marked  
6 K.Agha/K&A/Marzook?

7 A. Yes.

8 Q. Is that the schedule you created to reflect transactions  
9 between Marzook and Khairy Al-Agha?

10 A. Yes.

11 MR. JONAS: Your Honor, at this time I would offer  
12 into evidence the schedule marked K.Agha/K&A/Marzook.

13 THE COURT: That is admitted.

14 Q. (BY MR. JONAS) Agent Burns, before I get into this one,  
15 can you remind us again the time period that the HLF was  
16 sending money to Khairy Al-Agha?

17 A. It was from mid to late 1988. I believe the last  
18 transaction was in late October. October 27th, 1988 was the  
19 last transaction.

20 Q. When is the first transaction of this chart for payments  
21 to Khairy Al-Agha and Marzook?

22 A. From Khairy Al-Agha to Marzook the first transaction is  
23 the second on the chart, which is February 8, 1989, about  
24 three and a half months after the HLF sent its last  
25 transaction to K&A Trading.

1 Q. Was there a transaction prior to that between these two  
2 individuals?

3 A. Yes. Mousa Abu Marzook actually sent \$15,000 to Khairy  
4 Al-Agha in 1988, and the remainder of the transactions on this  
5 chart were going the other direction--K&A was sending the  
6 money back to Marzook.

7 Q. Okay. You mentioned that some of these documents you  
8 looked at to support this chart came from the Elbarasse search  
9 warrant?

10 A. Yes.

11 Q. Did you look at bank accounts as well?

12 A. I did.

13 Q. It says Elbarasse Search No. 36. Is that some of the  
14 documents you are referring to?

15 A. Yes.

16 Q. And Elbarasse Search No. 39?

17 A. That is correct.

18 Q. Then it says Marzook Bank Account No. 4. What is that?

19 A. That is one of the bank accounts held by Mousa Abu  
20 Marzook.

21 MR. JONAS: Your Honor, at this time I would offer  
22 into evidence Elbarasse Search No. 36, Elbarasse Search No.  
23 39, and Marzook Bank Account No. 4.

24 THE COURT: Those are admitted.

25 Q. (BY MR. JONAS) Agent Burns, how much money was moved

1 from Khairy Al-Agha to Mousa Abu Marzook?

2 A. I think it was approximately \$1.3 million. There is not  
3 a total on here, but if you add them up, it is well over a  
4 million.

5 Q. Just so we are clear are, on the chart the first  
6 transaction is shaded. Why is it shaded?

7 A. On the very first transaction?

8 Q. Yes.

9 A. To indicate the money was going in the other direction.

10 Q. You mean the other direction from Marzook to Khairy  
11 Al-Agha?

12 A. That is correct.

13 Q. Then you have money not shaded, and that reflects?

14 A. Money going from K&A Overseas Trading to Marzook.

15 Q. Agent Burns, in reviewing all the search warrant material  
16 and everything you have seen in the course of this case, did  
17 you come across any explanation as to why Holy Land Foundation  
18 was sending \$250,000 to Khairy Al-Agha?

19 A. I have seen information indicating that they said they  
20 only sent to charitable organizations, and I researched this  
21 and Khairy Al-Agha -- K&A Trading is not a charitable  
22 organization. So no, I did not find an explanation as to why  
23 they were sending so much money to K&A Overseas Trading.

24 Q. Okay. Staying with Marzook, let's talk about him for a  
25 minute, did you see anything indicating that Marzook himself

1       sent money to the three organizations that comprise the  
2       Palestine Committee, the UASR, IAP, and HLF?

3       A.     Yes, I did.

4       Q.     Did you create a chart that would summarize those  
5       transactions?

6       A.     I did.

7       Q.     Do you have those charts before you?

8       A.     I believe I need you to hand me those.

9                    MR. JONAS: Your Honor, may I have a moment, please?

10                  THE COURT: Yes.

11       Q.    (BY MR. JONAS) Do you have a chart reflecting payments  
12       Marzook and UASR?

13       A.    I do.

14       Q.    And what are those payments based upon and that chart  
15       based upon?

16       A.    Marzook bank records, Elbarasse search warrant material.

17       Q.    Okay. And what is the time frame of the transactions  
18       between Marzook and UASR?

19       A.    March 2nd, 1992 through November 30th, 1992.

20                    MR. JONAS: Your Honor, at this time I would offer  
21       into evidence Government's exhibit I believe it is labeled  
22       Marzook/UASR on the exhibit sticker.

23       Q.    (BY MR. JONAS) Is that correct, Agent Burns?

24       A.    Yes.

25                    MR. DRATEL: As to time frame, Your Honor.

1                   MR. JONAS: I believe she covered the time frame.

2                   MR. DRATEL: No, no. I am saying it goes to the  
3 time frame, that is the objection.

4                   MR. JONAS: I thought that was a question, asking  
5 the time frame.

6                   THE COURT: That is overruled, and that exhibit is  
7 -- That chart is admitted.

8                   MR. JONAS: If we can put page of that chart on the  
9 screen.

10          Q. (BY MR. JONAS) Agent Burns, this is based upon, again,  
11 Elbarasse search records?

12          A. In part, yes.

13          Q. As well as bank records?

14          A. That is correct.

15                   MR. JONAS: Your Honor, I apologize. I am not  
16 keeping track of documents as I am admitting them, so I may  
17 offer documents that are already in evidence just to play it  
18 safe.

19                   THE COURT: Sure.

20                   MR. JONAS: At this time I would offer into evidence  
21 Marzook Bank Account No. 3, Elbarasse Search No. 38, Marzook  
22 Bank Account No. 1.

23                   THE COURT: So Marzook Bank Accounts No. 1 and 3 --

24                   MR. JONAS: Correct, yes, sir.

25                   THE COURT: And then Elbarasse Search No. 38.

1 MR. JONAS: Correct, yes, sir.

2 THE COURT: And those are admitted.

3 MR. JONAS: Thank you.

4 Q. (BY MR. JONAS) Agent Burns, how many pages is this  
5 document?

6 A. Two.

7 Q. Two? What is the total amount of money Marzook sent to  
8 the UASR?

9 A. \$286,272.49.

10 MR. JONAS: Can we pull up page 54 -- I am sorry.

11 Page 52 of the Marzook Bank Account No. 3, and see one of the  
12 items that support this chart.

13 Q. (BY MR. JONAS) Is that -- That is from the -- That is a  
14 statement. Right?

15 A. That is correct.

16 Q. And that is the statement, if you can look at the chart  
17 does it reflect any of the payments between Marzook and UASR?

18 A. Yes, it does. The June 30th payment, if you will look at  
19 the second line from the bottom, it says June 30th with a  
20 check number and then the amount \$34,169.42.

21 Q. Okay. Did Marzook make payments to the IAP?

22 A. He did.

23 Q. I am sorry. Before you leave the UASR, what was the  
24 total time period he was making payments to the UASR?

25 A. March through November of 1992.

1 Q. 1992?

2 A. That is correct.

3 Q. What items did you review to support that he made  
4 payments to the IAP?

5 A. Elbarasse search warrant materials as well as Marzook  
6 bank records.

7 Q. Did you create a summary schedule of these payments,  
8 these transactions between Marzook and the IAP?

9 A. Yes.

10 Q. Do you have that before you?

11 A. I do.

12 Q. Okay. And is that labeled Marzook/IAP, the exhibit  
13 sticker?

14 A. Yes, it is.

15 MR. JONAS: Your Honor, at this time I would offer  
16 into evidence Government's Exhibit Marzook/IAP.

17 THE COURT: Okay. That is admitted. .

18 Q. (BY MR. JONAS) And for the record, what is the title of  
19 the schedule on the top? Is it a little more expansive than  
20 on the exhibit sticker itself?

21 A. It is.

22 Q. What does it say at the top?

23 A. "Payments from Marzook to the Islamic Association for  
24 Palestine."

25 MR. JONAS: If we can put the first page of that

1 exhibit on the screen, please.

2 Q. (BY MR. JONAS) And by the way, Agent Burns, with the  
3 last exhibit UASR and this current exhibit, were there any  
4 payments going from the UASR or IAP to Marzook, or was it  
5 purely a one way street from him to them?

6 A. I don't think that there were payments, but I can't say  
7 for sure that there weren't, based on these records.

8 Q. Based upon the records. That is what I am asking.

9 A. That is correct.

10 Q. Because in the Khairy Al-Agha transaction you said there  
11 was one transaction that went in the opposite direction.

12 A. That is correct.

13 Q. From what you have seen, it is from Marzook to all these  
14 entities?

15 A. Yes.

16 Q. Agent Burns --

17 MR. JONAS: Your Honor, at this time I would offer  
18 into evidence Marzook Bank Account No. 2.

19 THE COURT: That is admitted.

20 Q. (BY MR. JONAS) Agent Burns, could you -- You see where  
21 it says authorization?

22 A. I do.

23 Q. There is a few times where it says Elbarasse's name. Why  
24 is that?

25 A. Because he was the individual identified as having

1       authorized the specific payment out of the Marzook bank  
2       account.

3       Q.     And what is the time period of these transactions;  
4       starting when and ending when?

5       A.     The transactions begin February 11th, 1985 and they end  
6       August 1st, 1992.

7       Q.     Okay. In the Elbarasse records that we looked at the  
8       other day, does it indicate how long in existence the IAP --  
9       how long IAP existed for?

10      A.     Yes. I believe it was the first document we actually  
11       looked at from Ismail Elbarasse's home indicated that the IAP  
12       was originally created by the Muslim Brotherhood in the early  
13       '80s.

14      Q.     So it predates the Palestine Committee?

15      A.     Yes.

16      Q.     And the HLF and UASR, do they predate the Palestine  
17       Committee, from the records we have seen and discussed?

18      A.     They were all -- Well, the HLF was created about the same  
19       time. 1988 was when the Palestine Committee was formed, and  
20       the same thing with the HLF. And the UASR, I am not sure of  
21       the actual date, but it was around the same time.

22      Q.     Okay. So the fact that Marzook is making payments to the  
23       IAP as early as 1985, I believe you said was the first  
24       transaction, is that consistent with the material we have  
25       discussed?

1 A. Yes.

2 Q. And the fact he is making payments to UASR in 1992, is  
3 that also consistent --

4 A. Yes.

5 Q. In terms of the creation of the organizations.

6 How much money did Marzook pay in total to the IAP? If  
7 you look at the bottom of page 5.

8 A. \$757,864.

9 Q. Do you see in the last transaction, last two  
10 transactions, it says Richardson, Texas?

11 A. Yes.

12 Q. Did the IAP have a presence in Richardson?

13 A. Yes.

14 Q. And are you basing that on the bank records that are in  
15 evidence?

16 A. And also I saw the office there.

17 Q. For purposes of this chart?

18 A. Yes.

19 Q. Okay. Did Marzook make payments to any of the  
20 Defendants, including the HLF or these Defendants  
21 individually?

22 A. He did.

23 Q. Did you create a summary chart reflecting those payments  
24 as well?

25 A. Yes.

1 Q. And what is the name of the summary chart for the  
2 purposes of the sticker, the exhibit sticker?

3 A. The exhibit sticker says Marzook/Defendants.

4 Q. Okay. The title is different. The title says "Payments  
5 Between Marzook and the Defendants"?

6 A. That is correct.

7 Q. And what did you base this schedule on?

8 A. The NAIT bank records some of the Marzook bank accounts,  
9 Elbarasse search warrant material.

10 Q. Okay.

11 MR. JONAS: Your Honor, at this time I would offer  
12 into evidence Government's exhibit Marzook/Defendants.

13 MR. DRATEL: The only objection is as to time frame,  
14 Your Honor.

15 THE COURT: Okay. That is overruled, and that chart  
16 is admitted.

17 MR. JONAS: If we can put the first page on the  
18 screen, please.

19 Your Honor, at this time I offer -- I don't believe I  
20 have offered Elbarasse Search No. 37 into evidence yet. If I  
21 have, I apologize. If I have not, I am offering it now.

22 THE COURT: No. 37 is admitted. That was one of the  
23 ones we discussed from this morning. That is admitted.

24 Q. (BY MR. JONAS) Agent Burns, when is the first payment  
25 from the Holy Land Foundation to Mousa Abu Marzook?

1 A. The HLF paid Marzook \$10,000 on April 26th, 1988.

2 Q. Do you see on the far right on the exhibits there is  
3 several page numbers for the NAIT records?

4 A. Yes.

5 Q. One of them has the I and one of them has the S. Can you  
6 explain why there is multiple page numbers for this exhibit  
7 for this transaction?

8 A. Because there were several items that went into creating  
9 this transaction from the bank records, if you want to take a  
10 look at them.

11 Q. I didn't mean to interrupt.

12 But they all support that there is one transaction?

13 A. That is correct.

14 Q. Okay. The first part it says destination to Marzook and  
15 then Nadia Elashi. Again, who is she?

16 A. The wife of Mousa Abu Marzook.

17 Q. She is getting two \$10,000 payments; one on June 24th,  
18 1988, and then there is one on January 23rd, 1989. The  
19 spelling of the name is different. Why is that--Elashi?

20 A. As often with some of these Arabic names, as they are  
21 translated into English they are phonetically translated, so  
22 they can be spelled in many different ways. A-L-A-S-H-I is  
23 pronounced the same way as E-L-A-S-H-I.

24 Q. Is it spelled differently on this particular chart  
25 because that is how it is spelled in the records?

1 A. That is correct.

2 Q. If you look at the second transaction to Nadia Elashi,  
3 again January 23rd, 1989, it says BR Shukri. What does that  
4 mean?

5 A. Brother Shukri, referring to the Defendant Shukri Abu  
6 Baker.

7 Q. How do you know? Were there any other Shukris that you  
8 came across in connection to the HLF?

9 A. At this time Shukri Abu Baker was the only Shukri that  
10 was affiliated with the HLF.

11 Q. If you go down further on the right hand side where it  
12 says destination, you have source now April 1985 Mousa Abu  
13 Marzook, and then destination Shukri Baker. Can you explain  
14 why we have had a shift in this chart from destination and  
15 payment?

16 A. Okay. The chart was created for all payments between  
17 Marzook and the Defendants, so it is organized by who the  
18 source and destination were. So the original transactions  
19 show Occupied Land Fund transactions with Mousa Abu Marzook.  
20 The next section are transactions between Mousa Abu Marzook  
21 and the individual Defendant Shukri Abu Baker chronologically.  
22 So the first transaction with Shukri Abu Baker was April 17th,  
23 1985.

24 Q. Going back to the top transaction, April 25th, 1988, how  
25 soon after was this transaction occurred after HLF was

1 created?

2 A. Very shortly. We first saw the HLF in operation in very  
3 early '88.

4 Q. And in going through all the search warrant material, did  
5 you come across any explanation as to why Holy Land Foundation  
6 is sending a total of \$30,000 to Mousa Abu Marzook?

7 A. No.

8 MR. JONAS: Can we turn to the next page?

9 Q. (BY MR. JONAS) Was Marzook sending money to other  
10 Defendants besides the Holy Land Foundation and Shukri Baker,  
11 as we saw on the first page?

12 A. Yes.

13 Q. Who else was he sending money to?

14 A. To the Defendant Ghassan Elashi.

15 Q. What is the time period for those payments?

16 A. Both of those were in 1988.

17 Q. And any other Defendant?

18 A. The Defendant Mohammad El-Mezain.

19 MR. JONAS: Turn to the next page, please.

20 MR. DRATEL: What was the time frame on that?

21 Q. (BY MR. JONAS) What was the payment to Mohammad  
22 El-Mezain, the first and the last?

23 A. From July of 1988 through December 26, 1990.

24 MR. JONAS: Your Honor, the payments to El-Mezain  
25 are also reflected in Elbarasse Search No. 40. I don't

1 believe I have offered that one yet, so I do at this time.

2 THE COURT: That is admitted.

3 Let's go ahead and take the morning break at this time.

4 Let's be in recess until 11:00.

5 (Whereupon, the jury left the courtroom.)

6 THE COURT: Be in recess until 11:00.

7 (Brief Recess.)

8 THE COURT: Mr. Jonas?

9 Q. (BY MR. JONAS) Agent Burns, before the break we were  
10 talking about payments from Marzook and the Defendants, as  
11 well as the organizations that comprise the Palestine  
12 Committee. On those three charts, are total amounts listed?

13 A. On some of them they are; not on the chart between  
14 Marzook and the Defendants.

15 Q. Is that multiple individuals that are receiving money?

16 A. That is correct.

17 Q. Did you have an opportunity to total up the amount that  
18 Marzook paid to the Palestine Committee through the  
19 organizations or the Defendants themselves?

20 A. We did a rough estimate.

21 Q. Roughly how much did he pay?

22 A. Over \$1.2 million.

23 Q. You testified that the money to UASR, a lot of it was in  
24 1992. Is that correct?

25 A. That is correct.

1 Q. And how about between him and the HLF?

2 A. Between Marzook and the HLF?

3 Q. I shouldn't say him. Between Marzook and the HLF, what  
4 time period was he sending money to the HLF?

5 A. 1992.

6 Q. Did you review anything that indicates how much money  
7 Marzook himself received in 1992 in order to make these  
8 payments?

9 A. Yes.

10 Q. All right. Before we do that, can you just tell us again  
11 how much did he pay to the UASR in 1992?

12 A. To the UASR the total in 1992 was \$286,272.49.

13 Q. And how much did he pay to the Holy Land Foundation in  
14 1992?

15 A. 1992, \$210,000.

16 Q. So we are talking approximately half a million dollars  
17 that Marzook paid out to the UASR and HLF alone in 1992. Is  
18 that correct?

19 A. That is correct.

20 Q. Okay. Did you review any documents that indicates how  
21 much money he himself made in 1992 which would go to support  
22 these payments?

23 A. Yes.

24 Q. Do you have before you what is marked as Marzook Tax  
25 Return No. 1 or Marzook Tax No. 1?

1 A. I do.

2 Q. What is that item?

3 A. These are the tax returns for Mousa Abu Marzook that were  
4 signed on --

5 Q. What year is the return for?

6 A. It says 1992 at the top.

7 Q. Okay. You said tax returns. Is there just one return?

8 A. One return with supporting documentation.

9 Q. Is that tax return certified?

10 A. Yes.

11 MR. JONAS: Your Honor, at this time I would offer  
12 into evidence Marzook Tax No. 1.

13 THE COURT: Admitted.

14 MR. JONAS: If we can put the first page on the  
15 screen, please. Or the second page. Sorry. If we can scroll  
16 down now to the middle.

17 Q. (BY MR. JONAS) I am sorry. Just to confirm at the top  
18 it says Mousa Abu Marzook and Nadia Elashi?

19 A. It does.

20 Q. You said Nadia Elashi is his wife. Is that correct?

21 A. That is correct.

22 Q. Does this say how much in wages Marzook earned in 1992?

23 A. It says under taxable interest income \$6,809, and then  
24 under --

25 Q. I am sorry, Agent Burns. I don't mean to interrupt you,

1       but how much did he make in salary? How much does this  
2       document indicate he made in salary in 1992?

3       A.     His adjusted gross income was \$51,585.

4       Q.     I don't think you understand my question. Line 7 says  
5       wages. Correct?

6       A.     Right.

7       Q.     Wages is salary?

8       A.     I am sorry. Yes.

9       Q.     How much did he earn in salary in 1992?

10      A.     Zero.

11      Q.     Okay. How much income did he earn from other sources in  
12       1992?

13      A.     The interest income was \$6,809.

14      Q.     And then how much other income did he earn?

15      A.     Business income was noted as \$48,557.

16      Q.     Without analyzing this whole return, is there anywhere on  
17       the return that indicates what the business income was?

18      A.     Yes.

19      Q.     And what was it?

20      A.     Mecca Investments, an investment he had in a real estate  
21       company.

22      Q.     Is there anywhere in the return to indicate Marzook was  
23       wealthy?

24      A.     No.

25      Q.     In the course of your investigation did you come across

1 any evidence that Marzook was wealthy?

2 A. I came across bank records to indicate he dealt with a  
3 lot of money, but I did not see a legitimate source for that  
4 money.

5 Q. Okay. Do you know what Marzook was doing in 1992 in the  
6 United States?

7 A. I believe he was still a student in Louisiana at that  
8 time.

9 Q. So did you come across, in examining this tax return, any  
10 justification or source for \$500,000 that Marzook paid out to  
11 these two entities, UASR and HLF, just those two alone?

12 A. No.

13 Q. Did Marzook take a tax deduction for his payments he made  
14 to the HLF?

15 A. He took a tax donation for a payment that he made to the  
16 HLF, but not for the entire thing.

17 Q. You said he made a total of \$210,000 in payments to the  
18 HLF in 1992. How many payments did that comprise?

19 A. Three.

20 Q. What was the breakdown?

21 A. \$10,000, and then \$100,000, and then about ten days later  
22 another \$100,000.

23 Q. If we could turn to page 11 of his tax return, do you see  
24 where it says Schedule A?

25 A. I do.

1 Q. Contributions by cash, check. I am assuming that is what  
2 it means?

3 A. Yes.

4 Q. How much does it say that he contributed to the Holy Land  
5 Foundation in 1992?

6 A. \$25,000.

7 Q. Did the Holy Land Foundation give him a receipt for this  
8 money?

9 A. They did.

10 MR. JONAS: If you can turn to page 11, please.

11 THE WITNESS: I believe it is page 13.

12 Q. (BY MR. JONAS) I am sorry. We were on page 11. And do  
13 you see a receipt there from the Holy Land Foundation?

14 A. Yes.

15 Q. How much is it for?

16 A. \$25,000.

17 Q. Based upon your review of the bank records and the  
18 Elbarasse material in creating that schedule of payments by  
19 Marzook to the Defendants, did you actually see checks or wire  
20 transfers totaling the \$210,000 he made in 1992?

21 A. Yes.

22 Q. Is this \$25,000 receipt accurate?

23 A. No.

24 Q. Based upon what you looked at?

25 A. That is correct.

1 Q. Okay. Did any of the Defendants talk publicly about  
2 their relationship with Marzook?

3 A. They did.

4 Q. Was any of this public discussion in a phone call  
5 intercepted by the FBI?

6 A. Yes.

7 Q. Do you have before you what has been marked as Baker  
8 Wiretap No. 2?

9 A. Bear with me while I find my other binder.

10 Q. Sure.

11 A. I have it.

12 Q. I am sorry. Before we do that, I skipped one question.  
13 Did you come across any evidence indicating that Marzook acted  
14 as an intermediary in getting money to the HLF?

15 A. Yes.

16 Q. Do you have before you what has been marked as InfoCom  
17 Search No. 83?

18 A. I do.

19 Q. Okay. Without getting into the details, what is this  
20 document?

21 A. It is a piece of correspondence that relates to a  
22 transaction involving Mousa Abu Marzook and the HLF.

23 Q. Who signed this letter?

24 A. The Defendant Shukri Abu Baker.

25 Q. Is it on any letterhead?

1 A. The Occupied Land Fund.

2 MR. JONAS: Your Honor, at this time I would offer  
3 into evidence InfoCom Search No. 83.

4 THE COURT: Admitted.

5 Q. (BY MR. JONAS) What language is this letter in?

6 A. It was in Arabic.

7 MR. JONAS: If we can put page 2 on the screen,  
8 please.

9 Q. (BY MR. JONAS) What is the date of the letter?

10 A. February 17th, 1991.

11 Q. Okay. Just read where it starts, "His eminence," and the  
12 next line?

13 A. It is addressed to "His imminence, the honorable Sheik  
14 Omar Ahmad Badahdah. May good keep him. In reply to your  
15 notification which we received on February 3rd, I would like  
16 to inform you that we have received from your end the sum of  
17 \$66,000 through brother Mousa Abu Marzook. We thank you, and  
18 may God bless you. Hoping for your continued support to the  
19 Fund, and apologizing for the delay in sending this note."

20 Q. That is fine. Okay. Getting back to where I was a  
21 moment ago, do you have Baker Wiretap No. 2 before you?

22 A. I do.

23 Q. Okay. And is that a phone call involving any of the  
24 Defendants?

25 A. Yes.

1 Q. Who?

2 A. The Defendant Shukri Abu Baker.

3 Q. What is the date of the call?

4 A. April 1st, 1996.

5 Q. 1996?

6 A. That is correct.

7 Q. And is there a discussion between Shukri Baker and  
8 another party regarding his or HLF's relationship with  
9 Marzook?

10 A. Yes. This is a call in English between Shukri Abu Baker  
11 and a reporter, an American reporter named Gayle.

12 MR. JONAS: Your Honor, at this time I would offer  
13 into evidence Baker Wiretap No. 2 and No. 2-A, the  
14 accompanying audio.

15 THE COURT: Ms. Hollander?

16 MS. HOLLANDER: I am not sure. Is 2-A is first  
17 clip? Do they go in order?

18 MR. JONAS: Your Honor, excuse me.

19 THE COURT: Sure.

20 Any objections, Ms. Hollander?

21 MS. HOLLANDER: I am not sure which clip this is,  
22 because I have them all as one, and I may have some 106, but I  
23 will know as soon as I see it.

24 THE COURT: All right. Baker Wiretap No. 2 and 2-A  
25 are admitted.

1 Q. (BY MR. JONAS) Agent Burns, for purposes of this trial  
2 is the whole call being admitted, the entire call?

3 A. No, it is not.

4 Q. And what did you do with the call?

5 A. A lot of these calls were fairly lengthy, so what we did  
6 was redact and include only the portions that were relevant to  
7 what we were wanting to show here today.

8 Q. That is similar to what you did with the videotapes?

9 A. That is correct.

10 Q. Did the FBI change the content of the call in any way?

11 A. No.

12 Q. For purposes of this call, then, I think -- Is this call  
13 broken down into segments?

14 A. It is.

15 Q. I think for right now we only want to play the fourth  
16 segment.

17 (Whereupon, Baker Wiretap 2, clip 4 was played in open  
18 court, while questions were propounded.)

19 Q. (BY MR. JONAS) I am sorry. This is a woman named Gayle,  
20 you said, is a reporter.

21 A. That is correct.

22 Q. She referred to Mr. Marzook's attorney. At the time of  
23 this phone call, do you know what was going on with Marzook?

24 A. Yes. Marzook had been arrested at JFK Airport in 1995  
25 and was currently, at the time of this call, detained and

1 fighting his extradition proceedings.

2 Q. Okay. Marzook's phonebook is in evidence. Correct?

3 A. That is correct.

4 Q. Did you go through it?

5 A. Yes.

6 Q. Is the Defendant Shukri Baker's name in Marzook's  
7 phonebook?

8 A. It is.

9 Q. Any other Defendants' names in the phonebook?

10 A. Yes.

11 Q. Okay. Whose?

12 A. We went through it the other day and identified the  
13 number for Mohammad El-Mezain as well as Ghassan Elashi.

14 Q. Okay. Shukri Baker is telling this reporter that maybe  
15 his phone number is in Marzook's phonebook in relation to the  
16 \$210,000 three donations that Marzook gave to the HLF.

17 Correct?

18 A. Actually he said --

19 MS. HOLLANDER: Your Honor, I object to the leading  
20 and repeating testimony.

21 THE COURT: Okay. Do you want to rephrase?

22 MR. JONAS: Sure.

23 Q. (BY MR. JONAS) What was Shukri Baker referring to when  
24 he talked to Gayle, the reporter, regarding his name in  
25 Marzook's phonebook?

1 A. He was -- Well, she had asked him why his number would be  
2 in Marzook's phonebook, and he said that he guessed that he  
3 probably picked it up around the time of the convention.

4 MR. DRATEL: Objection, Your Honor. She is just  
5 repeating the transcript.

6 MR. JONAS: It is a foundational matter.

7 THE COURT: Yes. Go ahead.

8 Q. (BY MR. JONAS) We looked at the chart before, the  
9 payments between Marzook and the Defendants. Focus on the  
10 bottom half, please. Do you see there is a payment from  
11 Marzook to the Defendant Shukri Baker?

12 A. I do.

13 Q. In 1985?

14 A. I do.

15 Q. And there is another one in 1985?

16 A. Yes.

17 Q. Okay. How much earlier before Marzook gave \$210,000 to  
18 the HLF were these payments to the Defendant Shukri Baker?

19 A. Almost seven years.

20 Q. And there are some more payments on the next page?

21 A. Yes.

22 Q. So seven years prior to Marzook making this donation, he  
23 is giving money to Baker. Is that correct?

24 A. That is correct.

25 Q. Okay. Did Shukri Baker talk to any other Defendant

1 regarding the phone conversation we just played, the one with  
2 Gayle, the reporter?

3 A. Yes.

4 Q. Who?

5 A. The Defendant Mohammad El-Mezain.

6 Q. Okay. Do you have -- Was that phone conversation  
7 intercepted by the FBI?

8 A. It was.

9 Q. Do you have before you what is marked as El-Mezain  
10 Wiretap No. 11?

11 A. Yes.

12 Q. And who is the participants on that call?

13 A. This is a call between the Defendants Mohammad El-Mezain,  
14 Shukri Abu Baker, and Haitham Maghawri.

15 Q. What is the date of the call?

16 A. April 3rd, 1996.

17 MR. JONAS: Your Honor, at this time I would offer  
18 into evidence El-Mezain Wiretap No. 11.

19 MR. DRATEL: Your Honor, beyond the previous  
20 objections, but also we have a 106 --

21 MR. JONAS: For this one?

22 MR. DRATEL: Yes.

23 MS. HOLLANDER: We do, too. I don't know if it is  
24 the same 106.

25 THE COURT: Are you offering 11-A as well?

1 MR. JONAS: Yes, sir.

2 THE COURT: No. 11 and 11-A. Those are admitted,  
3 and we will deal with the 106.

4 MS. HOLLANDER: I am sorry to interrupt. I was just  
5 going to see if we had the same 106.

6 THE COURT: All right. Go ahead. Have you looked  
7 at their 106?

8 MR. JONAS: I have not, sir.

9 Your Honor, this is the first I am looking at this. I  
10 just need a moment to see if we can agree.

11 THE COURT: Sure. Go ahead.

12 MR. JONAS: Your Honor, we are going to object to  
13 their 106 requests.

14 THE COURT: Okay. Let me take a look at that.

15 (The following was had outside the presence and  
16 hearing of the jury.)

17 MS. HOLLANDER: This is where theirs ends, and it  
18 ends by saying "We don't give to individuals," and then they  
19 explain who they do give to. He is talking about who they  
20 give to and who they support. And then if you leave it there,  
21 it is just not complete, and in fairness the jury ought to  
22 hear the rest of it.

23 THE COURT: Okay. Go ahead.

24 MR. JONAS: I am not sure that is where we end. I  
25 don't see that on mine.

1 MS. HOLLANDER: That is where that part of it ends.

2 It may not where the whole thing ends. I am sorry.

3 MR. JONAS: There is two segments to this call.

4 That relates to the second segment, which I am not playing  
5 with this witness. I am only playing the first segment, which  
6 is the conversation about Marzook in the phonebook.

7 MS. HOLLANDER: Okay.

8 MR. DRATEL: Okay. So we will reserve --

9 MS. HOLLANDER: I am sorry. I thought this is what  
10 he was --

11 MR. DRATEL: We have something that continues as  
12 well.

13 THE COURT: So it goes beyond?

14 MR. DRATEL: Yes, but it is the next segment.

15 MR. JONAS: I am not sure what that is going to be.  
16 We can address it at that time.

17 (The following was had in the presence and hearing  
18 of the jury.)

19 THE COURT: Yes. Go ahead.

20 MR. JONAS: It is admitted, I assume, Your Honor?

21 THE COURT: Those are admitted.

22 MR. JONAS: If we can play the first segment of  
23 El-Mezain Wiretap No. 11-A.

24 (Whereupon, El-Mezain Wiretap 11 was played, while  
25 questions were propounded.)

1 Q. (BY MR. JONAS) Agent Burns, who is SH?

2 A. That is the Defendant Shukri Abu Baker.

3 Q. Who is MO?

4 A. That is the Defendant Mohammad El-Mezain.

5 Q. Okay. Agent Burns, who is Abu Omar?

6 A. That is the nickname for Mousa Abu Marzook.

7 Q. His Abu name?

8 A. Yes.

9 Q. His oldest son is named Omar?

10 A. Correct.

11 Q. Agent Burns, you see it says SB 210?

12 A. I see that.

13 Q. What is that? Do you know?

14 A. I think that is just an error on the screen. On the  
15 actual transcript that is Shukri Abu Baker SH saying 210.

16 Q. So that is just out of place?

17 A. That is correct.

18 Q. Okay. Do you see where the Defendant Mohammad El-Mezain  
19 says "In one lump sum"?

20 A. Yes.

21 Q. Was the payment the \$210,000 by Marzook to the HLF in one  
22 lump sum?

23 A. No.

24 Q. How many sums was it in?

25 A. Three sums, three transactions.

1 Q. Do you see where it said -- the Defendant Shukri Baker  
2 said, "We have no relationship issue," and politics right  
3 above it. Was there a relationship between the Defendants,  
4 HLF, and Marzook at this time period and going back to 1988?

5 A. Yes. The documents that we have reviewed indicate --

6 MR. DRATEL: Your Honor, I am going to object to the  
7 time period going back, because this call is in 1996.

8 THE COURT: Overruled. Go ahead.

9 THE WITNESS: The documents that we reviewed,  
10 primarily on Thursday, but a few today, were dated in the late  
11 '80s up until that chart that we saw in 1991 where Mousa Abu  
12 Marzook was the head of the Palestine Committee of which the  
13 Holy Land Foundation and the Defendants Shukri Abu Baker and  
14 Mohammad El-Mezain were a part at that very time.

15 Q. (BY MR. JONAS) Agent Burns, did you review any evidence  
16 indicating that in fact there was telephonic contact between  
17 Marzook and the Defendants?

18 A. Yes.

19 Q. Are these phone calls that the FBI intercepted?

20 A. No. Primarily this information came from old telephone  
21 bills that were seized during search warrants and also what we  
22 call toll records, which are records from the phone company  
23 that were obtained by the FBI back during the time that -- or  
24 in, you know, the early to mid '90s.

25 Q. What time period do you have these phone records for?

1 A. Approximately 1989 to early 1993, I think.

2 Q. Is there a reason why you don't have records for a later  
3 time period?

4 A. Well, we didn't have all the phone records, and I don't  
5 have all the phone numbers that the Defendants possibly could  
6 have used. So I am sure my records are incomplete, but I  
7 based my research on what I had available to me.

8 Q. Did you create a chart which summarizes the phone calls  
9 between the Defendants and Marzook?

10 A. Yes.

11 MR. JONAS: Your Honor, may I approach the witness?

12 THE COURT: Yes.

13 Q. (BY MR. JONAS) Is this the chart that you are referring  
14 to?

15 A. Yes.

16 Q. Is this chart based upon the records you just testified  
17 about?

18 A. That is correct.

19 MR. JONAS: Your Honor, at this time I would offer  
20 into evidence what is marked as Marzook/Defendant Phone Calls.

21 MS. HOLLANDER: May we approach about this exhibit,  
22 Your Honor?

23 THE COURT: All right.

24 (The following was had outside the hearing of the  
25 jury.)

1                   MS. DUNCAN: Your Honor, this exhibit was originally  
2 designated as a demonstrative exhibit by the Government, and  
3 then we learned yesterday that they are intending to, and I  
4 may be wrong about exactly when, but they are intending to  
5 introduce it as a summary.

6                   These are not voluminous records. This is not the kind  
7 of records that would come in substantive evidence under the  
8 summary rule. They are a demonstrative. So we object to it  
9 coming in as substantive evidence and as anything other than a  
10 demonstrative to illustrate the Agent's testimony.

11                  MS. HOLLANDER: All they have are phone records. In  
12 other words, they have records of phone calls placed from a  
13 phone number to phone number, and I think this is misleading.

14                  MS. CADEDDU: I also believe it is misleading, and I  
15 have some concerns about others of the Government's summary  
16 and demonstrative exhibits because they talk about the  
17 Defendants, or Defendants, and my client is not listed on any  
18 of those.

19                  MR. WESTFALL: May I add one thing?

20                  THE COURT: One more.

21                  MR. WESTFALL: I haven't heard a single thing that  
22 happened here, but for my purposes, they keep saying Marzook  
23 and the Defendants. My Defendant isn't in any of this, so I  
24 want to just ask for a limiting instruction, but I know you  
25 said we are going to take that -- I do not waive my ability to

1       get a limiting instruction before this jury, so how do you  
2       want to handle that?

3           THE COURT: We just have to address that. I have  
4       not seen that exhibit. Do you have the Defendants, the names  
5       on there?

6           MR. JONAS: Yes, sir. The names are right there.

7           THE COURT: Okay. All right. Okay.

8           I think that does qualify as a summary. There are enough  
9       calls that it can come in as a substantive chart 106. And  
10      then I think it is self-explanatory. I understand the  
11      concerns you and Mr. Westfall have, but on its face it names  
12      the Defendants, and of course you are asking the witness that.

13           MR. JONAS: I will ask a clarifying question to make  
14       sure that we are not talking about the Defendants Abdulqader  
15       and Odeh.

16           MS. CADEDDU: I would like to object generally to  
17       the Government's statements "Have you seen evidence of such  
18       and such between this person and the Defendants." I mean,  
19       that implies that it is between other of the Defendants and it  
20       isn't.

21           THE COURT: I don't know that the jury is catching  
22       all of that. The evidence that comes in will show who the  
23       calls are between, so I think the jury can understand what is  
24       going on.

25           MS. CADEDDU: I would just like -- If the Government

1       is going to talk about the Defendants, I would like them to  
2       perhaps say "some of the Defendants" instead of "the  
3       Defendants."

4                   THE COURT: It is some of the Defendants. That  
5       would probably be good.

6                   MR. JONAS: Yes, sir.

7                   THE COURT: Okay.

8                   (The following was had in the presence and hearing  
9       of the jury.)

10                  THE COURT: All right. This is a chart, then,  
11 Marzook/Some of the Defendants Phone Calls?

12                  MR. JONAS: Yes, sir.

13                  THE COURT: That is admitted.

14                  MR. JONAS: For the record, I would like to also  
15 admit the documents that Agent Burns referred to to support  
16 this chart, HLF Search Warrant No. 9 and HLF Search Warrant  
17 No. 10.

18 Q. (BY MR. JONAS) And Agent Burns, are those phone records  
19 HLF Search Warrant No. 9 and 10?

20 A. I am looking to make sure that is all of them, because I  
21 don't have a copy of the summary chart. There were --

22 Q. I know there are additional phone records, but HLF Search  
23 No. 9 and 10.

24 A. That is correct.

25                  MR. JONAS: Also Your Honor, I would like to

1 introduce Bell Atlantic No. 1 and Bell Atlantic No. 2.

2 Q. (BY MR. JONAS) Agent Burns, are those also phone  
3 records?

4 A. Yes.

5 MR. JONAS: Also, Your Honor, South Central Bell.

6 Q. (BY MR. JONAS) Agent Burns, are those phone records as  
7 well?

8 A. That is correct.

9 MR. JONAS: And lastly, Your Honor, is New Jersey  
10 Bell.

11 Q. (BY MR. JONAS) Agent Burns, are those phone records?

12 A. Yes.

13 THE COURT: Any objections to HLF Search No. 9 and  
14 10, and then the Bell, South Central Bell and New Jersey phone  
15 records?

16 MR. DRATEL: Just time frame.

17 MR. WESTFALL: Your Honor, may I address Mr. Jonas?

18 THE COURT: Sure.

19 MR. WESTFALL: Thank you, Your Honor.

20 THE COURT: And any other objections? Those  
21 exhibits are admitted.

22 Q. (BY MR. JONAS) Agent Burns, just to be clear, there are  
23 three Defendants listed here?

24 A. That is correct.

25 Q. On the right. Defendant Shukri Baker, Defendant Mohammad

1       El-Mezain, and Defendant Ghassan Elashi. Correct?

2       A.     That is correct.

3       Q.     And when we have been discussing the relationship between  
4           Marzook and some of the Defendants, does that include all five  
5           Defendants in this case, or all six if you include the HLF?

6       A.     I am sorry. Can you repeat that?

7       Q.     Are there any Defendants that did not have this  
8           relationship with Marzook that we have been discussing, both  
9           monetarily in terms of financial transactions, and phone  
10          calls?

11      A.     Yes.

12      Q.     Who?

13      A.     The Defendants Mufid Abdulqader and Abdulrahman Odeh are  
14          not included on either the financial chart or the phone chart  
15          that we are discussing here.

16      Q.     So the Defendants that had a relationship with Marzook  
17          are Defendants Shukri Baker, Mohammad El-Mezain, Ghassan  
18          Elashi, as well as the Holy Land Foundation?

19      A.     The Defendants that had a relationship that I could  
20          establish.

21      Q.     Can you walk us through this chart, Agent Burns?

22      A.     Yes. Basically this chart just indicates phone calls  
23          between Marzook and the Defendants that are listed there. The  
24          numbers, the telephone numbers for Marzook that were analyzed  
25          are listed below Marzook's name. There were five of them; two

1       in Ruston, Louisiana. The 318 area code indicates the  
2       Louisiana numbers. And 703 are the phone numbers that he had  
3       once he moved to northern Virginia.

4           And then the time periods and the number of calls are  
5       listed with an arrow indicating in which direction the phone  
6       calls were going. For example, if Marzook -- On the top line  
7       Marzook called the Defendant Shukri Abu Baker between January  
8       3rd, 1989 and January 22nd, 1990 25 times.

9           And then on the other side it shows for the Defendant  
10      Shukri Abu Baker, the phone numbers that were analyzed to put  
11      together this chart. So those were the phone numbers  
12      belonging to Shukri Abu Baker that Marzook had telephonic  
13      contact with.

14     Q.    And how soon -- How much time period -- Withdrawn. I  
15    wasn't phrasing that correctly. The donation or the money  
16    that Marzook gave to the HLF was in 1992, you stated. How  
17    soon before that was the first phone call between Marzook and  
18    Shukri Abu Baker?

19     A.    Several years. 1989, January of 1989, so.

20     Q.    And to be clear, did the FBI, as far as you know,  
21    intercept any of these phone calls?

22     A.    No, they did not. There were no -- During the times of  
23    the calls referenced on this chart, there were no wiretaps of  
24    any of these individuals.

25     Q.    Did the FBI intercept any phone calls at a later time

1       between Marzook and any of the Defendants listed here?

2       A.     There may have been one that I am thinking of, but not  
3           anymore than that.

4       Q.     Okay. And from your review of the evidence and from your  
5           review of these records, does this mean that there were no  
6           phone calls between Marzook and the Defendants after the last  
7           date on this chart?

8       A.     No. As I said, I based this chart on the information  
9           that I had available to me. I could only base my research on  
10          what I had available.

11      Q.     Did you try to get phone records going back to 1993  
12          forward?

13      A.     By the time the criminal investigation was instituted in  
14          2001, a lot of older records, they were no longer maintained  
15          by the telephone companies. But in addition that, I also  
16          didn't have a complete listing of everyone's phone numbers,  
17          their cell phone numbers. Mousa Abu Marzook moved overseas in  
18          the mid '90s, or was overseas quite a bit. I don't have his  
19          numbers for over there.

20      Q.     In the Defendant Shukri Baker's deposition that we have  
21          been referring to, did he discuss his relationship with  
22          Marzook?

23      A.     He did.

24      Q.     If you can turn to Baker Deposition, page 74, if you have  
25          it in front of you. I can hand you a copy, if you need.

1 A. I have it. I just have to find it.

2 MR. JONAS: If you can put it on the screen. I  
3 believe it is page 6 of the actual document.

4 THE WITNESS: Okay.

5 Q. (BY MR. JONAS) One moment to get it up on the screen.

6 A. Excuse me, Mr. Jonas. To point out, I think that there  
7 is an error on that chart. That is what I wanted to check.  
8 The 317 area code is actually for Indiana, not California.  
9 That should be Indiana, not California.

10 Q. Okay. Thank you.

11 MR. JONAS: Okay. If we can enlarge the top right  
12 hand page. That is 74 and 75.

13 Q. (BY MR. JONAS) Agent Burns, could you read what Shukri  
14 Baker said regarding his relationship with Marzook in this  
15 sworn deposition?

16 A. Yes. The question was, "How about Mr. Abu Marzook? Do  
17 you know who he is?"

18 And Shukri Abu Baker's answer is, "Yes."

19 Question: "Okay. Now, it's my understanding at some  
20 point he made a contribution to the Holy Land Foundation. Is  
21 that correct?"

22 Answer: "Yes."

23 Question: "Okay. And I want to ask you about that in a  
24 minute. Let's put that aside for the moment. Other than that  
25 contribution, are you aware of any relationship or involvement

1       that Mr. Abu Marzook had with the Holy Land Foundation?"

2                  Answer: "No."

3       Q.     Did the Defendant Mohammad El-Mezain also talk about his  
4     relationship with Mousa Abu Marzook in his deposition?

5       A.     He did.

6       Q.     Do you have the El-Mezain Deposition before you?

7       A.     I do.

8       Q.     Do you have starting on page 57, line 15? And if you  
9     don't have that, I can hand you my copy.

10      A.     I do.

11      Q.     Can you read from page 57, line 15, to page 59, line 10,  
12     please.

13      A.     Okay.

14                  Question: "Now, have you actually met Abu Marzook?"

15                  Mohammad El-Mezain's answer is, "Yes."

16                  Question: "On how many occasions? Many occasions? One  
17     or two?"

18                  Answer: "He was living in Fort Collins, Colorado."

19                  Question: "When you were there?"

20                  Answer: "Yeah."

21                  Question: "Did you socialize with Abu Marzook when you  
22     were in Fort Collins?"

23                  Answer: "Sometimes we sit in the mosque together, with  
24     the people of the mosque, basically."

25                  Question: "Other than your dealings with Mr. Abu Marzook

1       in the mosque in Fort Collins, did you have any other personal  
2       dealings with him?"

3              Answer: "No. You cannot say personal dealings.

4       Sometimes -- Sometimes he call, congratulate our festival or  
5       something like that. We go eat after or something like that."

6              Question: "Sometimes he called. When you say, 'our  
7       festival,' are you talking about an HLF festival?"

8              Answer: "No. We as mosque" --

9       Q. Agent Burns, let me interrupt you. I believe in  
10      discussion with Defense counsel, that is not supposed to be  
11      mosque. That is supposed to be Muslims. But please continue.

12      A. "We as Muslims have two festivals like the Christmas."

13              Question: "Right. Like Ramadan?"

14              Answer: "After Ramadan."

15              Question: "Okay."

16              Answer: "This is before he left the country."

17              Question: "Okay."

18              Answer: "After that, nothing more."

19              Question: "When you say, 'He called us,' I guess I was  
20      confused. Who is 'us'?"

21              Answer: "He called me."

22              Question: "He called you?"

23              Answer: "Maybe once a year or something like that, or  
24      sometimes two, three years. It depends upon his call  
25      sometimes. But we don't have any relation, direct relation".

1 Q. Agent Burns, let me interrupt you for a moment. How many  
2 calls did Marzook make to El-Mezain in the less than four-year  
3 period that is reflected on your chart?

4 A. Fifty-two times.

5 Q. And if he was calling him two or three times a year, per  
6 this deposition, during this time period alone, how many calls  
7 would there have been?

8 A. He actually says one a year or once every two or three  
9 years, so there would have only been a handful.

10 Q. Okay. Please continue.

11 A. Question: "Okay. And these phone calls were around the  
12 time of the festivals, the holiday?"

13 Answer: "Yes."

14 Question: "Other than what you've described in terms of  
15 these phone calls Mr. Abu Marzook would make around the time  
16 of the festivals, your having sat with him in the mosque in  
17 Fort Collins, and the distant family relationship, do you have  
18 any other relationship with Mr. Abu Marzook over the course of  
19 the years?"

20 Answer: "No. Sometimes I saw him in the conferences."

21 Q. That is good enough. Thank you, Agent Burns.

22 Did you look to see if there was a correlation on the  
23 dates of the phone calls with any events going on at the Holy  
24 Land Foundation?

25 A. I did find a correlation with some of the calls.

1 Q. And before I ask you that, I want to make sure that when  
2 you have a time range here for calls, and just using as an  
3 example the first one January 3rd, '89 to January 22nd, 1990  
4 with the phone calls to the Defendant Shukri Abu Baker, do you  
5 have the actual dates of those calls per the phone records?

6 A. Yes. You can actually go to the phone records and look  
7 for the telephone numbers referenced and see the actual call,  
8 the date, the length of time, et cetera.

9 Q. Okay. And in doing that, did you find a correlation  
10 between certain calls and certain events with the Holy Land  
11 Foundation?

12 A. Yes.

13 Q. What was your correlation?

14 A. On a couple of occasions I found that phone calls between  
15 the parties happened at the time of HLF board meetings.

16 Q. Okay. Did you find that on more than one time?

17 A. I did.

18 Q. Okay. Agent Burns, I want to turn back to where we were  
19 earlier this morning, the Occupied Land Fund Disbursements  
20 1989 chart. Do you recall that?

21 A. I do.

22 MR. JONAS: If we can just pull that up real quick.  
23 I am being instructed I need to put it on the elmo, and I  
24 won't do that because I am moving on to another question.

25 Q. (BY MR. JONAS) In that 1989 disbursement chart do you

1 recall seeing payments made to an organization known as the  
2 Islamic Relief Association?

3 A. Yes.

4 Q. Is that the right title Islamic Relief Association?

5 A. On the chart it says Islamic Relief. It is actually the  
6 Islamic Relief Committee or Association. The word translates  
7 to both.

8 Q. Okay. Did you create a sub-chart reflecting payments  
9 between the HLF and the Islamic Relief Association?

10 A. Yes.

11 Q. Okay. Do you have that chart before you?

12 A. I don't think I have the chart.

13 Q. Okay.

14 MR. JONAS: Just give me one moment, sir. May I  
15 approach?

16 THE COURT: Yes.

17 Q. (BY MR. JONAS) Now do you have the chart?

18 A. I do.

19 Q. Okay. And what is that chart based on?

20 A. This chart is based on search warrant material and also  
21 HLF bank records and some Islamic Relief Committee account  
22 records.

23 Q. Okay.

24 MR. JONAS: Your Honor, at this time I would offer  
25 into evidence Government's Exhibit --

1 Q. (BY MR. JONAS) What is it called on the sticker, Agent  
2 Burns?

3 A. It is called Payments to Islam RA.

4 MR. JONAS: I would offer into evidence Government's  
5 exhibit Payments to Islam RA.

6 THE COURT: Counsel? That is admitted.

7 MR. JONAS: If we can put the first page on the  
8 screen, please.

9 Q. (BY MR. JONAS) What is the title of the chart? I  
10 realize it is more expansive than on the sticker.

11 A. "Payments to Islamic Relief Agency (Committee)."

12 Q. And what is the date of the first payment?

13 A. April 12th, 1991.

14 Q. What does it go through? What is the last date of the  
15 payment on page 7?

16 A. February 15th, 1996.

17 Q. Now, you see where it says the Hamas designation-SDT  
18 1/23/95?

19 A. Yes.

20 Q. Can you explain again what that means, because we have  
21 some payments after that date?

22 A. The schedule lists the payments from the HLF to the  
23 Islamic Relief Committee chronologically, and the line there  
24 indicates the date of the designation so that you can  
25 determine which transactions occurred before and after the

1 designations.

2 Q. And are any of these transactions authorized by any of  
3 the Defendants in this case?

4 A. Yes.

5 Q. Who?

6 A. The Defendant Ghassan Elashi, the Defendant Shukri Abu  
7 Baker.

8 MR. JONAS: Your Honor, at this time as supporting  
9 documents I would offer into evidence Government's Exhibit HLF  
10 Search No. 44.

11 THE COURT: Admitted.

12 Q. (BY MR. JONAS) Agent Burns, let's just look at the last  
13 transaction, the \$40,000 transaction, February 1996.

14 A. Uh-huh.

15 MR. JONAS: If we can put HLF Bank Account No. 1,  
16 page 732 on the screen.

17 Q. (BY MR. JONAS) Is HLF Bank Account No. 1 a large  
18 exhibit?

19 A. Yes, it is.

20 Q. And what is this document?

21 A. This is the signature card for that bank account.

22 Q. This is page 1 actually. Right?

23 A. That is correct.

24 Q. And whose name do you see on this card?

25 A. The Defendants Ghassan Elashi and Shukri Abu Baker.

1                   MR. JONAS: Can we get page 732, please, on the  
2 screen?

3                   Q. (BY MR. JONAS) Does this reflect -- this item reflect  
4 the payment to Islamic Relief?

5                   A. This is part of the statement. I believe you have to  
6 scroll to some of the later pages to actually see the exact  
7 transaction.

8                   MR. JONAS: Let's go to next page, please.

9                   Q. (BY MR. JONAS) Do you see it here?

10                  A. Yes. The wire transfer was dated February 15th, 1996 in  
11 the amount of \$40,000. So if you look on the statement  
12 February 15th, you can scroll across and see wire transfer  
13 \$40,000.

14                  Q. How do you know that went to the Islamic Relief  
15 Association?

16                  A. I believe if we scroll forward we will see the exact  
17 item. If not, then it is based on the search warrant records  
18 that are also referenced in the exhibit column.

19                  Q. So the item that is telling you where this money went is  
20 contained either in the bank records or the search warrant  
21 records.

22                  A. They are referenced here, yes.

23                  Q. And the schedule tells people where to go to find those  
24 items?

25                  A. That is correct.

1 Q. We are not going to go through every single page. Okay?

2 A. Okay.

3 Q. Did you find the letter in Elbarasse's material regarding  
4 a request for \$100,000?

5 A. Yes, I did.

6 Q. Do you have Elbarasse Search No. 17 before you?

7 A. I do.

8 Q. What is the date of that letter, if it is dated?

9 A. It is dated July 20th. Based on the content, we were  
10 able to put it in 1992.

11 Q. Okay. Do you have the author of the letter, who signed  
12 it?

13 A. It was signed in code.

14 Q. Is it addressed to anybody?

15 A. It is not.

16 MR. JONAS: Your Honor, at this time I would offer  
17 into evidence Government's Exhibit Elbarasse Search No. 17.

18 MS. MORENO: Subject to our previous objections,  
19 Your Honor.

20 THE COURT: All right. That is admitted.

21 Q. (BY MR. JONAS) Agent Burns, do you have in front of you  
22 InfoCom Search No. 3 as well?

23 A. I do.

24 Q. What is that item?

25 A. This is a project summary report for an HLF project with

1       the Islamic Relief Committee.

2       Q.     Agent Burns, am I going somewhere with these random  
3           questions?

4       A.     Yes, you are, I think.

5                   MR. JONAS: Your Honor, at this time I would offer  
6           into evidence Government's exhibit InfoCom Search No. 3.

7                   THE COURT: That is admitted.

8       Q.    (BY MR. JONAS) And finally, Agent Burns, do you have  
9           Government's exhibit InfoCom Search No. 4 before you?

10      A.    I do.

11      Q.    Okay. What is that item?

12      A.    It is also an HLF project summary report found at  
13           InfoCom.

14                   MR. JONAS: Your Honor, I would offer into evidence  
15           Government's Exhibit InfoCom Search No. 3.

16                   THE COURT: And you are also offering No. 4?

17                   MR. JONAS: I meant No. 4, yes, sir.

18                   THE COURT: I thought you identified 3 and 4.

19                   MR. JONAS: I believe I did No. 3, and I think that  
20           was admitted.

21                   THE COURT: You are right. It is admitted. No. 4  
22           is admitted.

23       Q.    (BY MR. JONAS) Agent Burns, with regard to Elbarasse  
24           Search No. 17, with regard to some of these phone calls from  
25           Marzook, with regard to some of the bank records that we have

1 looked at, and for the moment I will talk about InfoCom Search  
2 No. 3, is there a correlation?

3 A. I found that certain circumstances and events happened  
4 during a relevant time period that all seemed to fit together.

5 Q. Okay. And did you create a chart that would demonstrate  
6 these events, a timeline, coming together?

7 A. I did I created a timeline.

8 Q. Do you have before you what has been marked as  
9 Demonstrative No. 8?

10 A. I do not have the demonstrative.

11 MR. JONAS: May I have a moment, please?

12 THE COURT: Yes.

13 MR. JONAS: Your Honor, we don't have a copy up  
14 here. I think we left ours downstairs.

15 Q. (BY MR. JONAS) Agent Burns, do you know what I am  
16 referring to when I refer to Demonstrative No. 8?

17 A. I do.

18 Q. Did you create Demonstrative No. 8?

19 A. Yes.

20 Q. And is it based upon the documents that are currently in  
21 evidence?

22 A. That is correct.

23 MR. JONAS: Your Honor, at this time I would offer  
24 into evidence Demonstrative No. 8.

25 MS. MORENO: Excuse me, Your Honor. I don't have it

1 so I can't -- I have seen it, but it is not in this particular  
2 group that I have, and I would object; hearsay, it is  
3 misleading, 403, it is inaccurate.

4 THE COURT: And it is based on documents that are  
5 already in evidence, you say?

6 MR. JONAS: Yes, sir.

7 THE COURT: It is admitted. Those objections are  
8 overruled.

9 MS. CADEDDU: Can I clarify? It is admitted as a  
10 demonstrative?

11 THE COURT: It is admitted as a demonstrative.

12 Q. (BY MR. JONAS) Agent Burns, do you see on the screen  
13 Demonstrative No. 8?

14 A. Yes.

15 Q. Can you walk us through what is going on here?

16 A. I can. The first --

17 Q. Before you do that --

18 MR. JONAS: Your Honor, there is one more exhibit I  
19 believe that is on this document that I didn't offer into  
20 evidence, InfoCom Search No. 22.

21 Q. (BY MR. JONAS) What is InfoCom Search No. 22, Agent  
22 Burns?

23 A. It was a document seized from InfoCom that relates to the  
24 set of events that we are discussing.

25 MR. JONAS: I will offer into evidence InfoCom

1 Search No. 22.

2 THE COURT: Counsel? That is admitted.

3 MR. JONAS: Agent Burns, if you can walk us through  
4 these series of events and the time frame they occur.

5 A. Okay. The first item listed on the timeline relates to  
6 exhibit Elbarasse Search No. 17, which is a letter that was  
7 found in the search warrant of Mr. Elbarasse's home, among a  
8 lot of other materials belonging to Mousa Abu Marzook.

9 Q. Hold on a moment.

10 MR. JONAS: Let's put that on the screen Elbarasse  
11 Search No. 17, please. We can look at that letter.

12 Q. (BY MR. JONAS) What language was that letter found in,  
13 by the way?

14 A. It was in Arabic.

15 Q. Did the FBI have it translated?

16 A. Yes.

17 MR. JONAS: If you can put the next page, please.

18 Q. (BY MR. JONAS) Agent Burns, could you read that letter,  
19 please? It is fairly short.

20 A. Yes. It says, "In the name of God the beneficent, the  
21 merciful. New daring operations for Ezz Eddin al-Qassam  
22 Brigades."

23 Q. Let me pause you for a moment. What is that Izz el-Din  
24 al-Qassam Brigades?

25 A. That is the Hamas military wing.

1 Q. Have you seen that in some of the documents we have  
2 discussed?

3 A. Yes.

4 Q. The Hamas charter?

5 A. Yes.

6 Q. Please go on.

7 A. Actually I don't believe it was in the Hamas charter,  
8 but, I mean, it has been in several of the documents that we  
9 have referenced.

10 Q. Okay.

11 A. "In response to the martyrdom of the military leader of  
12 Ezz Eddin al-Qassam Brigades, the military wing of the Islamic  
13 Resistance Movement, Hamas, the Brigades carried out a violent  
14 attack on a Zionist military patrol unit in the Jibalia region  
15 on Saturday July 18th. The attack led to the injury of a  
16 number of the patrol unit members, and the heroes of the  
17 Brigades returned safely to their bases.

18 "It is a jihad for the sake of God. A victory or a  
19 martyrdom.

20 "We have bargains of very modern and different pieces of  
21 steel in front of us, and they are being offered to us for  
22 purchase now. Otherwise, they will be offered to Fatah.  
23 Therefore we hope" --

24 Q. Agent Burns, I am sorry. Have we seen Fatah in this  
25 case?

1 A. Yes.

2 Q. What is Fatah?

3 A. It is basically the secular party in the Palestinian  
4 territories, the party of Yasser Arafat.

5 Q. Please continue.

6 A. "Therefore we hope that you send \$100,000 very quickly to  
7 conclude the bargains before they are sold, as the positive is  
8 in dire need for them to replace the old pieces, all of which  
9 are not worth one new piece.

10 "Send us the approved budget for the company for month 7.

11 "Salah the treasurer still refuses to give us the sum of  
12 money. Contact him as our financial situation is difficult.

13 "Yesterday an agreement to solve Fatah's problem has been  
14 reached, and if the assaults continue we will respond to Fatah  
15 in the appropriate manner.

16 "May God bless you. July 20th."

17 Signed Seven Up.

18 Q. Were you ever able to determine who Seven Up is?

19 A. I don't know.

20 MR. JONAS: If we can go back to Demonstrative No. 8  
21 now, please.

22 Q. (BY MR. JONAS) Please continue explaining this timeline.

23 A. On July 30th, telephone records referenced here indicate  
24 that Hamas leader Mousa Abu Marzook placed a phone call to the  
25 Defendant Mohammad El-Mezain.

1 Q. Let me ask you -- There are two pictures under that  
2 reference. Who are they?

3 A. The one on top is Hamas leader Mousa Abu Marzook and the  
4 one below is the Defendant Mohammad El-Mezain.

5 Q. Please continue.

6 A. Two days later Mousa Abu Marzook issued a \$100,000 check  
7 to the HLF.

8 Q. Is that reflected on the summary schedule we looked at  
9 before of money moving from Marzook to the HLF?

10 A. It is. And the check is located in the bank account  
11 referenced, the exhibit referenced here.

12 Q. Is that part of the \$210,000 that has been discussed?

13 A. Yes.

14 Q. Please continue.

15 A. Five days later the Holy Land Foundation approved a  
16 project called Project 236 for \$100,000 for prisoners'  
17 families through the Islamic Relief Committee. And the wire  
18 in that case was requested by the Defendant Ghassan Elashi.

19 Q. Is that a picture of the Defendant there?

20 A. It is.

21 Q. Continue.

22 A. Then four days later the HLF actually wired \$100,000 to  
23 the Islamic Relief Committee for that project.

24 Q. Did you look at InfoCom Search No. 3, the project binder,  
25 which supported the \$100,000 payment?

1 A. Yes.

2 Q. And were you able to -- Based upon the documents  
3 contained within that project binder, were you able to account  
4 for the \$100,000 being used for anything?

5 A. The project was very confusing. The initial  
6 documentation from the time --

7 MR. DRATEL: I object that the project was  
8 confusing, Your Honor.

9 THE COURT: Overruled. Go ahead.

10 THE WITNESS: The time of the initial project in  
11 1992, the paperwork indicates that there was \$100,000 to go to  
12 100 needy families. Attached to that were applications for  
13 approximately 100 families with a suggested amount to be  
14 issued to those families. Two years later --

15 Q. (BY MR. JONAS) I am sorry. Before you go forward,  
16 roughly how much was the suggested amounts?

17 A. The suggested amounts varied, but on average about \$200  
18 per family.

19 Q. Did you figure out how much, based on those suggested  
20 amounts, should have gone to those 100 families?

21 A. Much less than \$100,000. If you multiply on average \$200  
22 for 100 families you have \$20,000.

23 But again, about two years later -- And if we could go to  
24 that exhibit, I can show you what I am talking about.

25 Q. Sure. Which page number?

1 A. Okay. If you go to page -- It is a very large exhibit  
2 because of the 100 families whose applications are attached.

3 Q. Are those 100 family applications, would that be  
4 supporting documentation for the wire transfer?

5 A. Correct. As I said, the initial paperwork said this  
6 \$100,000 was to go to 100 needy family, and then approximately  
7 100 needy family applications were attached.

8 If you go to 336 of the exhibit, which is --

9 Q. InfoCom Search No. 3?

10 A. Yes. This is the Arabic version of the document, and I  
11 believe the translation is hopefully just after this. Yes.  
12 Later, two years after the initial project, a final report was  
13 filed along with this indicating that \$100,000 was issued to  
14 500 families.

15 Q. Did you find supporting documentation for 500 families?

16 A. No. As I said, the paperwork included the initial 100  
17 family applications.

18 Q. Did you look to see if the paperwork for the 400  
19 additional families were anywhere in the search warrant  
20 material?

21 A. I looked for Project 236, and I could not find any  
22 additional families that went along with this project.

23 Q. Okay. Agent Burns, after this first initial \$100,000  
24 transaction occurred, did you see something similar happen  
25 shortly thereafter?

1 A. Yes, very shortly thereafter.

2 Q. Did you create a timeline as part of Demonstrative No. 8?

3 A. I did.

4 MR. JONAS: Your Honor, if we can put on the second  
5 page of Demonstrative No. 8.

6 Q. (BY MR. JONAS) What is happening now? This is how soon  
7 after the last event?

8 A. Very soon after the actual -- the last wire went over to  
9 the Islamic Relief Committee, but a week after or two weeks  
10 after everything started in the last chart.

11 Q. Go ahead.

12 A. Okay. On August 10th, 1992, Hamas leader Mousa Abu  
13 Marzook placed another call to the Defendant Mohammad  
14 El-Mezain. On that same day he issued another check for  
15 \$100,000 to the HLF. Two days later we located or there was a  
16 fax dated August 12th, 1992 found in the Elbarasse materials.

17 Q. Let me stop you for a moment. Is Elbarasse Search No. 18  
18 that fax?

19 A. It is.

20 Q. And does it relate to these transactions that you are  
21 testifying about?

22 A. It does.

23 MR. JONAS: Your Honor, I am not sure if I offered  
24 Elbarasse Search No. 18 into evidence. I am doing so at this  
25 time, if I have not already.

1                   THE COURT: I don't show it in. Any objection to  
2 that? It is admitted.

3                   MR. JONAS: And why don't we pull up Elbarasse  
4 Search No. 18 and look at it.

5 Q. (BY MR. JONAS) Okay. It is in Arabic. Is that correct,  
6 Agent Burns?

7 A. That is correct.

8 Q. Did the FBI translate it?

9 A. Yes.

10 Q. What page is the English on?

11 A. Well, at first if you look on the original in the Arabic  
12 it says from Islamic Relief Committee or Islamic REL Committee  
13 with the date August 12, 1992.

14 Q. Is that the same committee that we looked at the last  
15 financial summary chart of where payments began in the early  
16 '90s, I believe, and ended up after Hamas is designated?

17 A. We looked at the chart from the HLF the to Islamic Relief  
18 Committee. Correct.

19 Q. By the way, how much did HLF pay the Islamic Relief  
20 Committee in total?

21 A. Over \$1.4 million.

22 Q. Okay. What is the first page of the English on this  
23 document?

24 A. It is page 10.

25 Q. And what is it about this document that drew your

1 attention?

2 A. It was addressed to the brothers, and it was found at  
3 Ismail Elbarasse's home, along with all these other documents  
4 that we have been talking about. And it is a request -- it is  
5 a letter, it is probably about eight pages long, the  
6 translation is, anyway, addressed to the brothers, and it  
7 reports on a visit of the individual who wrote the letter, to  
8 Palestine in 1992 around the same time of the events that we  
9 are discussing in these charts.

10 If go to page 13 of the exhibit, and in the middle there  
11 where it says "Our beloved...our brothers" the author is  
12 saying -- Do you want me to read it?

13 Q. Yes, please.

14 A. "It is an appeal for help from your brothers to you, and  
15 from hearts full of wounds, hearts that are not shaken by  
16 tornados, and that are not moved by the wind to their brothers  
17 in the leadership of Hamas: Do not forsake your  
18 brothers...you fill the earth, and the Muslim Ikhwan are in  
19 every part of it.

20 "And they tell you, 'Give us weapons and take men whom  
21 the world will recognize,' God willing, even if the criminals  
22 hate it and even if the Christians and those who stir up  
23 sedition hate it.

24 "And if the hateful hate it.

25 "Weapons...to protect your brothers who are threatened by

1       the eagles of treason, weapons to carry out Jihad operations  
2       and ask Khan Younis about the day of July 22nd."

3       Q.     Is there anything else in that letter of note?

4       A.     Yes. On the following page, page 14, the author under  
5       the third paragraph says, "Therefore, I appeal to you to take  
6       a quick action and find out the needs of the Inside so that  
7       the families of our brothers do not suffer more frustrations  
8       than what is already there. To my humble knowledge, the  
9       transfer channels are now open and without problems.

10      Examining the delivery channels, placing each channel in its  
11      main purpose without using its funds for other channel means:

12           No. 1 "The detainees and the needs of their families.  
13       Their funds are to be in a specific channel and distributed  
14       throughout The Strip.

15           "The martyrs.

16           "Those afflicted among our brothers by the demolition of  
17       their homes and severance of income.

18           "The activities...and these are numerous and varying.

19           "The economic projects.

20           The Islamic University.

21           "The Islamic Complex.

22           "The Islamic Society."

23       Q.     The Islamic Complex, is that an organization that we have  
24       already talked about the HLF sending money to?

25       A.     It is.

1 Q. Okay. Agent Burns, you say this came from the Islamic --  
2 By the fax title, it came from the Islamic Relief  
3 Organization?

4 A. Yes. According to the fax title, that is where it came  
5 from.

6 MR. JONAS: And if we can go back to the timeline.

7 Q. (BY MR. JONAS) Please continue explaining.

8 A. Six days after the date of that fax, the HLF approved  
9 another \$100,000 wire transfer for the Islamic Relief  
10 Committee. And the individuals that were indicated in that  
11 committee, and we can go to it in a minute, most of them were  
12 families of prisoners.

13 Q. Well, were you able to account for the \$100,000 in this  
14 project, this \$100,000 wire?

15 A. No. This project was the same as the last. The initial  
16 paperwork -- If we want to go to it, it is InfoCom Search No.  
17 4, page 1. You will see there in the middle it indicates that  
18 the \$100,000 went to 100 families in Gaza and the West Bank.  
19 And all of the supporting documentation, the applications for  
20 the families that needed support is attached, again,  
21 approximately 100 families. And as I stated in that chart, a  
22 majority of the families were family members of people who  
23 were detained, and that documentation is contained herein.

24 In this project as well as the other one, there was a  
25 report on page 3 is the Arabic version, that in November of

1 1994 was filled out. And I am not sure what page the  
2 translation is on. If it is not immediately after that we  
3 will have to scroll through for the translation. But  
4 basically it says the same thing as the previous one did--that  
5 there were 500 families sponsored.

6 Q. Did you find supporting documentation for 500 families in  
7 this project?

8 A. No, I did not.

9 Q. So again, if you are looking at 100 families at  
10 approximately \$200 a family, \$20,000 is accounted for?

11 A. That is true.

Q. And this wire was for \$100,000?

13 A. That is correct.

14 MR. JONAS: If we can go back to the chart, please,  
15 the timeline.

16 Q. (BY MR. JONAS) What happened after the \$100,000 was  
17 approved by Ghassan Elashi to send to the Islamic Relief  
18 Association?

19 A. The next day the money was actually sent, the \$100,000  
20 was sent from the HLF to the Islamic Relief Committee.

21 Q. Thank you.

22 MR. JONAS: Your Honor, I know it is a few minutes  
23 early, but I am at a real good breaking point.

THE COURT: Let's take a break. Be back at 1:45.

(whereupon, the jury left the courtroom.)

1                   THE COURT: Agent, you may step down.

2                   Ma'am, on the front row with that magazine, let me see  
3 those documents you are holding up. I could read them from  
4 here. Come up here a minute.

5                   Everybody else can have a seat.

6                   Mr. Jonas, do you want to take the documents there?

7                   Hand those to Mr. Jonas so I can see what it is you are  
8 holding up. I could read something.

9                   MR. JONAS: Evolution. The back part is disputed  
10 territories.

11                  THE COURT: Flip to the front. The magazine is  
12 open. I saw something. And then the other side. That is  
13 what I saw. That is what I read.

14                  That is inappropriate for you to have that in here,  
15 ma'am. And I heard that you were displaying it out in the  
16 hall earlier. That is totally inappropriate. We have jurors  
17 that are coming in and out. I don't know whether you are  
18 trying to influence jurors or not.

19                  UNIDENTIFIED OBSERVER: I am just trying to be  
20 informed about this.

21                  THE COURT: You can be here, certainly, and be  
22 informed, but it is not proper to try and influence. It is  
23 improper to be showing it in here and be carrying it out there  
24 where others can see that.

25                  THE OBSERVER: I appreciate that.

1 THE COURT: Make sure you don't do that. That is  
2 totally inappropriate.

3 THE OBSERVER: Thank you very much.

THE COURT: All right. We are in recess.

5 (Lunch Recess.)

MS. CADEDDU: Your Honor, may we approach?

7 THE COURT: Sure. Come on up.

10 THE COURT: Here we are again.

11 MS. CADEDDU: Here we are again. I am sorry.

12 Your Honor, I was unaware until today of the lady you  
13 called out and what she was doing. But I wanted to put on the  
14 record exactly what the article said and where she was sitting  
15 and what she was doing.

16           But before I do that, it has come to our attention that  
17        people in the gallery have us that she was holding up another  
18        article that said "Hamas rock star" during the Government's  
19        playing my client's performances with the band during the  
20        video being played for those.

21 She also today was --

22 THE COURT: Last week?

MS. CADEDDU: That was Thursday, yes, sir.

24 And today during breaks she was showing that article to  
25 various people in the hallway. And then during the lunch

1 break, I actually saw this myself, she was pulled aside by the  
2 CSO who asked I think for identification, and then when that  
3 interchange was done, she and her friend went and stood next  
4 to two of the jurors who were waiting for an elevator and  
5 proceeded to have a conversation and paged through the  
6 documents. This was after you instructed her.

7 THE COURT: Just now at the lunch break?

8 MS. CADEDDU: Yes. And to put on the record, the  
9 article that she was holding up for the Court said "Hate  
10 speech is not free speech." And she was sitting directly  
11 behind -- and I am not suggesting the Government had anything  
12 to do with it, but that is where she was sitting.

13 THE COURT: In the middle of the courtroom.

14 MS. CADEDDU: Yes. So what we would like to do is  
15 to make inquiry of her the next time she is here about whether  
16 she has had any interchanges with jurors and whether she has  
17 shown them any documents or had any discussions with them. I  
18 mean, this is obviously of a very great concern.

19 THE COURT: All right.

20 MR. CLINE: Your Honor, if I may add, in addition to  
21 making the inquiry, admonish her again not to have inside or  
22 outside the courtroom, any contact with the jurors. She seems  
23 like a person on a mission.

24 THE COURT: Do you know her?

25 MR. JONAS: No, sir. We have no idea who she is.

1                   MS. HOLLANDER: If I may add a little bit, she is  
2 also drawing pictures, and I don't think we can stop her from  
3 this.

4                   THE COURT: We might, depending on what she is  
5 drawing.

6                   MS. HOLLANDER: She is drawing counsel. She was  
7 drawing one of the Defendants' and daughter.

8                   MS. MORENO: Only if it is flattering to me.  
9 Otherwise --

10                  MS. HOLLANDER: But I just want to make that part of  
11 the record, that that is what she is doing, and she was  
12 writing in Hebrew.

13                  THE COURT: Okay. Just remind me next time she is  
14 in, and we will find a good time to break and I will talk to  
15 her about that, and I will talk to the CSOs and see what they  
16 saw as far as with having any contact.

17                  MR. JACKS: I might have missed, how do we know what  
18 the articles were about or anything?

19                  THE COURT: I don't know what they were about, but  
20 what I saw it said "Hate speech is not free speech." Of  
21 course, that is related to what is going on here, and we don't  
22 need that.

23                  MR. JACKS: I understand.

24                  THE COURT: She got up, as soon as they said, "All  
25 rise for the jury," she stood up and I saw that right away.

1       So I know the jury could see if they were looking. The jury  
2       is coming this way, so hopefully nobody saw it. But by the  
3       time she came up to Barry, she had already flipped the page  
4       and that is not what was showing, so it she indicated to me  
5       she knew, she was hiding it. And I had already heard that  
6       there was somebody showing something, but wasn't real  
7       specific. But when I saw that -- I knew it was her, but then  
8       when I saw that, that just caught my attention right away.

9                   MS. CADEDDU: Just for the record, Your Honor, the  
10       reason we know what the article said that she was showing to  
11       people is because she actually showed it to Ms. Hollander's  
12       paralegal. The article said, "Hamas' rock star," and was  
13       showing her "Is this Mufid? Is this his picture? This is  
14       Mufid Abdulqader And so she approached her without knowing who  
15       she was or who she was associated with.

16                  THE COURT: In the courtroom or in the hall?

17                  MS. CADEDDU: I believe in the hallway on a break.  
18       And of course our jurors are milling around with everyone  
19       else.

20                  MR. CLINE: Your Honor, two other quick things  
21       before we break here. I talked with Mr. Jonas, and with the  
22       Court's permission these 106 issues that keep coming up, if  
23       you don't mind, we would prefer to raise those on cross.

24                  THE COURT: Yeah. I don't mind. That is generally  
25       the cleaner way to do it, rather than having to have this.

1                   MR. CLINE: The Government will reserve its  
2 objections under 106 to particular things we want to put in,  
3 but it won't argue we are too late because we are doing it on  
4 cross.

5                   THE COURT: At that point I don't think it is even a  
6 106. If it is relevant you are entitled to cross on something  
7 that you think is relevant and get it in. 106 is a  
8 contemporaneous issue, and then you have to read it and take a  
9 look at everything. That is not a decision that I can always  
10 make just real quick. It takes some time.

11                  MR. CLINE: So we will do that on cross.

12                  THE COURT: I think you will get a lot more latitude  
13 on cross.

14                  MS. HOLLANDER: But it can still be a 106 on cross?

15                  THE COURT: If you want to call it that. I just  
16 generally call it cross.

17                  MR. WESTFALL: Just related writings and the rest of  
18 the documents will come into evidence.

19                  THE COURT: 106, I see this as a narrow rule. It is  
20 something that should be considered contemporaneous, and that  
21 is a narrow rule. I generally like to do it, prefer that you  
22 do it on cross, and you can get into whatever you want to on  
23 cross, if it is relevant.

24                  MR. CLINE: The other thing is--again, I took this  
25 up with Mr. Jonas--we had the discussion this morning about

1 giving the Government on cross exhibits, which we will do.  
2 Mr. Jonas has agreed on behalf of the Government, and I agree  
3 on behalf of all the Defense, that we will not show that list  
4 to the witness who is on cross so that if there is an element  
5 of surprise to be had, we will preserve it, but the Government  
6 can prepare.

7 THE COURT: I think that is the way to handle it.

8 MS. MORENO: And also that may not be exhaustive,  
9 depending upon what testimony the witness --

10 THE COURT: I understand.

11 MR. CLINE: We will make a good faith effort to do  
12 that.

13 THE COURT: You should know most of it, but if  
14 something comes up we can all live with that.

15 (The following was had in the presence and hearing  
16 of the jury.)

17 THE COURT: Mr. Jonas?

18 MR. JONAS: Thank you, sir.

19 Q. (BY MR. JONAS) Agent Burns, I want to get back and talk  
20 about the Palestine Committee.

21 A. Okay.

22 Q. Did the Palestine Committee have any meetings that were  
23 recorded by the FBI?

24 A. Yes.

25 Q. And is there one in particular that stands out in your

1 mind?

2 A. There is.

3 Q. When did that meeting occur?

4 A. October 2nd and 3rd of 1993.

5 Q. I am sorry. Could you repeat that?

6 A. October 2nd and 3rd of 1993.

7 Q. Where did it take place?

8 A. At a Courtyard by Marriott in Philadelphia, Pennsylvania.

9 Q. With regard to the Israeli-Palestinian issues, what was  
10 going on at that time?

11 A. The Oslo Peace Accords had just been signed.

12 Q. Did the FBI record this entire meeting?

13 A. They did.

14 Q. And was the recording transcribed into a transcript?

15 A. Yes. A majority of the conversation was in Arabic, and  
16 there were English transcriptions of the conversations, and I  
17 have reviewed those.

18 Q. Okay. Generally speaking, what was the purpose of the  
19 meeting?

20 A. The purpose of the meeting was for the Palestinian  
21 Committee members to discuss how they were going to continue  
22 to operate in the United States in light of the signing of the  
23 peace accords between the Palestinians and the Israelis.

24 Q. Okay. For purposes of your testimony, would it be fair  
25 to call this the Philadelphia meeting or the Philly meeting?

1 A. Yes.

2 Q. Were there planning conversations on the  
3 call -- Withdrawn. Did any of the Defendants or any of the  
4 participants have any phone calls where they discussed the  
5 planing of the Philadelphia meeting?

6 A. Yes.

7 Q. And were those phone calls intercepted by the FBI?

8 A. Some of them were, yes.

9 Q. Do you have what has been marked Ashqar Wiretap No. 1?

10 A. I do.

11 Q. And can you remind us who Ashqar is?

12 A. Ashqar is one of the members of the Palestinian Committee  
13 that we saw on the list. Also his home is the one that was  
14 searched in that covert search in December of '93.

15 Q. With regard to Ashqar Wiretap No. 1, who are the  
16 participants in this call?

17 A. Abdel Haleem Ashqar, the Defendant Shukri Abu Baker, and  
18 Omar Yehia, also known as Omar Ahmad.

19 Q. What is the date of the call?

20 A. September 13th, 1993.

21 MR. JONAS: Your Honor, at this time I would offer  
22 into evidence Ashqar Wiretap No. 1 and 1-A.

23 THE COURT: That is admitted. .

24 Q. (BY MR. JONAS) And again, Agent Burns, is this the whole  
25 call that we have, or are we offering into evidence a redacted

1 version?

2 A. We are offering portions of the call.

3 Q. All right.

4 MR. JONAS: If we can play the portions that we  
5 have, please.

6 (Whereupon, Ashqar Wiretap No. 1 was played while  
7 questions were propounded.)

8 Q. (BY MR. JONAS) Agent Burns, this is moving pretty fast.

9 Do you know why it is going fast, the words on the screen?

10 A. It is my understanding that the language specialist and  
11 the technical people tried to marry up the actual Arabic that  
12 is spoken with the English on the screen, and they are  
13 speaking very fast on the phone, so the print is going to run  
14 very fast on the screen.

15 MR. JONAS: With Your Honor's permission, I may stop  
16 it every few moments just to let everyone catch up.

17 THE COURT: Sure.

18 Q. (BY MR. JONAS) Agent Burns, who is OM?

19 A. That is Omar Ahmad.

20 Q. And who is SH?

21 A. The Defendant Shukri Abu Baker.

22 Q. It said a moment ago Association and Fund. Where have we  
23 seen those names?

24 A. The Association is the IAP, and the Fund is the Occupied  
25 Land Fund or the Holy Land Foundation.

1                   THE COURT: I don't know that the jury remembers  
2 always what these acronyms are.

3                   THE WITNESS: The Islamic Association for Palestine,  
4 the IAP.

5 Q. (BY MR. JONAS) And where have we seen the IAP and the  
6 HLF together?

7 A. Organizations that were part of the Palestine Committee.

8 Q. Do you see where Omar mentions Abu Ibrahim?

9 A. Yes.

10 Q. Who is that?

11 A. That is the Defendant Mohammad El-Mezain.

12 Q. Do you know who Aboul Hasan is?

13 A. Aboul Hasan is the nickname for Abdel Haleem Ashqar, who  
14 is also a participant in this call.

15 Q. Would that be AB, the next person speaking?

16 A. That is correct.

17 Q. Who is Abu Mohamed?

18 A. Shukri Abu Baker uses the name Abu Mohamed, but I believe  
19 Omar Ahmad also uses that nickname.

20 Q. Agent Burns, they mentioned an individual who is out in  
21 the media all the time. Did they say that person's name?

22 A. They did.

23 Q. Who is that person?

24 A. Mohamed Helmy.

25 Q. Do you know who he is?

1 A. There is a Mohamed Helmy Jerad in the Chicago area that I  
2 believe he is referring to.

3 Q. Is he part of the Palestine Committee?

4 A. He was at one point.

5 Q. Agent Burns, what does the UI mean in brackets?

6 A. Unintelligible. That means the translator couldn't  
7 understand exactly what was being said there.

8 Q. Where Shukri Baker says, "Because of the Friday sermon  
9 that one gets the Foundation in grave trouble," what is the  
10 Foundation?

11 A. The Holy Land Foundation.

12 Q. Agent Burns, again Abu Ibrahim is who?

13 A. Defendant Mohammad El-Mezain.

14 Q. Agent Burns, there is a discussion of papers and writing.  
15 From your review of the Philadelphia transcript, were papers  
16 presented to the participants?

17 A. Yes, they were.

18 Q. And what does that mean?

19 A. Well, the Philadelphia meeting was separated into  
20 sessions based on topics, and individuals wrote papers  
21 regarding certain topics, like media and charity work, and  
22 presented those papers to the meeting attendees and they  
23 discussed the papers.

24 Q. Okay. Agent Burns, do you see where it says SC in  
25 parentheticals?

1 A. I do.

2 Q. Do you know what that means?

3 A. Simultaneous conversation.

4 Q. Two people speaking at once?

5 A. Yes.

6 Q. Do you see where it says "Haitham from the Fund"?

7 A. I do.

8 Q. Who is Haitham?

9 A. Haitham Maghawri from the HLF.

10 Q. What was his role at the HLF his title?

11 A. He originally had a different office, but he ultimately  
12 became the executive director later on.

13 Q. Agent Burns, do you see where it says, "But at people who  
14 have experience about the inside ought to write their visions  
15 about the inside, have we seen the term inside in this case  
16 already?

17 A. Yes.

18 Q. What does that mean?

19 A. Again, that means inside the Palestinian territories.

20 Q. That would be the West Bank and Gaza?

21 A. That is correct.

22 Q. Agent Burns, was there another call where there was a  
23 discussion about the meeting prior to the meeting taking  
24 place?

25 A. There was.

1 Q. Do you have before you Ashqar Wiretap No. 2?

2 A. I do.

3 Q. Who are the participants in this call?

4 A. Abdel Haleem Ashqar and Omar Yehia, also known as Omar  
5 Ahmad.

6 Q. What is the date of this call?

7 A. This one is dated September 27th, 1993.

8 MR. JONAS: Your Honor, at this time I would offer  
9 into evidence Ashqar Wiretap No. 2.

10 THE COURT: That is admitted.

11 MR. JONAS: I don't think we are going to play this  
12 one. I think we are just going to read the first page.

13 Q. (BY MR. JONAS) Agent Burns, do you have that in front of  
14 you?

15 A. I do.

16 THE COURT: Do you also want to offer 2-A?

17 MR. JONAS: Yes, Your Honor. Thank you for  
18 reminding me. No. 2-A.

19 THE COURT: Those are admitted.

20 MR. JONAS: Thank you, sir.

21 MR. JONAS: Page 2.

22 Q. (BY MR. JONAS) Agent Burns, if you can just read this  
23 first page, and I will let you know when to stop.

24 MR. DRATEL: Can we get a date of the conversation?

25 Q. (BY MR. JONAS) Agent Burns do you know the date of the

1 call?

2 A. Yes. It is September 27, 1993.

3 Q. Do you see where the date is on the transcript?

4 A. That is correct.

5 Q. Okay. If you can read the first page or the second page  
6 of the transcript, the first page where there is actually  
7 conversation, and I will let you know when to stop.

8 A. Okay. The first speaker AB is Ashqar, and he says, "By  
9 God, no. I mean, nothing. May God protect you. Everything  
10 is fine. Nothing new. May God bless you." Abou Mohamed Isam  
11 is coming."

12 "Who?"

13 "Isam."

14 "Okay, good God willing."

15 "I am just waiting for what's his name, Riyad, to send me  
16 a reply about the other three, who are Yousif, Salah, and Al  
17 Hanooti."

18 "Oh, has not Salah answered you yet?"

19 "By God, my brother, I -- I couldn't get ahold of him.  
20 So, God willing, I will catch him tomorrow, I mean. I didn't  
21 find him yesterday. And I contracted him a while ago, but  
22 nobody answers, I mean, so -- "

23 "Good."

24 "Good. But I don't know -- "

25 "Now, it will become how many, six people, I mean, will

1 come."

2 "Hmm. What's his name, Al Hanooti, Salah as well, Riyad,  
3 Abou Ibrahim, and Isam. That makes it six, I mean".

4 "Jawad."

5 "No. I meant from New Jersey. Six, I mean."

6 "Abou Ibrahim, Riyad, and Isam. Those three are for  
7 sure."

8 Q. Agent Burns, you can stop there. And Abuo Ibrahim is?

9 A. The defendant Mohammad El-Mezain.

10 Q. And where was he living at the time this call took place?

11 A. In New Jersey.

12 Q. Looking at the rest of this transcript, generally what do  
13 they talk about?

14 A. Who will be attending the Philadelphia meeting.

15 Q. Is this really following on the heels of the last call  
16 that we played?

17 A. It does.

18 Q. Agent Burns, in the course of the material that you  
19 reviewed, did you come across any written itinerary for the  
20 Philadelphia meeting?

21 A. I did.

22 Q. Do you have before you Ashqar Search No. 4?

23 A. I do.

24 Q. Where did that document come from?

25 A. That came from the covert search of the home of Abdel

1 Haleem Ashqar.

2 Q. And Ashqar was a participant in that first call we just  
3 played planning the meeting?

4 A. In both of the calls that we just discussed.

5 MR. JONAS: Your Honor, at this time I would offer  
6 into evidence Ashqar Search No. 4.

7 THE COURT: That is admitted.

8 MR. JONAS: If we can put that on the screen,  
9 please, starting with the first page. The next page.

10 Q. (BY MR. JONAS) Agent Burns, the first page it  
11 said -- Withdrawn. What language is this document in?

12 A. Arabic.

13 MR. JONAS: And if we can go to page 4, please.

14 Q. (BY MR. JONAS) What is the title of this document?

15 A. "Future of Islamic Action for Palestine in North America  
16 seminar, 2-3 October, 1993."

17 Q. The title "Islamic Action for Palestine," have we seen  
18 that title used in any of the documents you testified about  
19 already?

20 A. Yes. I believe it has been in several, most prominently  
21 in the October 1992 internal memorandum from the international  
22 Muslim Brotherhood.

23 Q. That was one of the Elbarasse documents you testified  
24 about?

25 A. That is correct.

1 Q. On this particular document, just summarize it for us so  
2 we don't need to read the whole thing.

3 A. Basically it lists under No. 1 the goals of the seminar,  
4 the Philadelphia meeting. No. 2, describes how the sessions  
5 will be moderated and lists the names of like, for example,  
6 session moderator under the first session, if you will scroll  
7 down, is the Defendant Shukri Abu Baker. So it identifies the  
8 topic of the first session, the people who will participate,  
9 the individual who is moderating.

10 And the same thing for the second session, which is  
11 charity work, and identifies who will present the papers, and  
12 who will be moderating the session.

13 And on the next page it identifies the topic of the third  
14 session, and who would be presenting papers, and the moderator  
15 of the session.

16 Q. Thank you.

17 Agent Burns, did you create a summary chart identifying  
18 who attended the session and the documents that you reviewed  
19 that helped you identify those people?

20 A. Yes.

21 Q. What did you base your summary chart on?

22 A. We based the summary chart on a variety of different  
23 exhibits--the planning phone calls that we just listened to,  
24 the actual meeting transcripts themselves, and in the  
25 transcripts we were able to identify some of the speakers at

1 the conference.

2 There were also records from the search warrant  
3 indicating -- like American Express bills indicating plane  
4 tickets that were purchased for individuals. In addition,  
5 there were records obtained from the Marriott Hotel at the  
6 time the meeting took place.

7 Q. What Marriott?

8 A. I believe it was Courtyard by Marriott in Philadelphia.

9 MR. JONAS: Your Honor, may I approach?

10 THE COURT: Yes.

11 Q. (BY MR. JONAS) Agent Burns, I am holding up for you what  
12 has been marked as Philly Meeting Summary. Is this the chart  
13 that you prepared based upon the records you talked about of  
14 who attended the Philadelphia meeting?

15 A. Yes, we prepared that.

16 Q. Would this aid the jury in your testimony this afternoon?

17 A. Yes.

18 MR. JONAS: Your Honor, at this time I would offer  
19 into evidence Philly Meeting Summary.

20 THE COURT: That is admitted.

21 MR. DRATEL: I am going to object, Your Honor,  
22 because it is misleading with respect to Mr. El-Mezain. It  
23 says the meeting. He wasn't at the meeting. The Government  
24 acknowledges that.

25 MR. JONAS: Agent Burns is going to explain exactly

1 that.

2 THE COURT: That entry? Okay.

3 MS. CADEDDU: I would object for the same reason,

4 Your Honor.

5 THE COURT: Those objections are overruled. That  
6 Philadelphia Meeting chart is admitted.

7 Q. (BY MR. JONAS) Agent Burns, let me first start by asking  
8 you, the enlargement of this exhibit has tape over a couple of  
9 spots. Why is that?

10 A. They were corrections made at the last minute.

11 Q. Okay. The one on the screen, is that the corrected  
12 version, the one that is the actual exhibit?

13 A. Yes.

14 Q. Okay. Can you first walk us through this by explaining  
15 across the top what the row is?

16 A. Well, the first column would be the attendees, the name  
17 of the individual that we will be discussing.

18 The next column are the organizations that the individual  
19 belonged to according to the evidence that we have discussed.

20 The next column is a column which references AMEX No. 1,  
21 which is an exhibit that we will be discussing here. If that  
22 individual appeared in those records as having attended the  
23 Philadelphia meeting, there will be a checkmark by that  
24 individual's name under that column.

25 The next column is Marriott Hotel records, which were the

1 records that were obtained from the Marriott Hotel at the time  
2 of the conference. If the individual Defendant's name appears  
3 in those records, a checkmark will appear across from his name  
4 under that column.

5 The next column is listed "speaker at conference," and we  
6 have 18 transcripts of conversations that took place during  
7 the conference that were recorded. If the individual either  
8 self-identified or his voice was identified by the language  
9 specialist as speaking at the conference, there will be a  
10 checkmark under his name on the chart.

11 Next, there were some surveillance photos that were taken  
12 by FBI agents back in 1993 of the meeting, and if individuals  
13 could be positively identified in any of the surveillance  
14 photos, there is a check under that column by their name.

15 And then finally, the last column is for planning phone  
16 calls, and if the individuals were mentioned as being invited  
17 to attend the conference in those calls, there will be a  
18 checkmark by that individual's name under that column.

19 MR. JONAS: Your Honor, at this time I would like to  
20 offer into evidence the supporting documentation for this  
21 chart, to the extent some of it is not already admitted. We  
22 have AMEX No. 1.

23 Q. (BY MR. JONAS) And Agent Burns, whose records are AMEX  
24 No. 1?

25 A. AMEX No. 1 are records obtained from the -- I am looking

1 to make sure I am right, because we had American Express  
2 records from two different places. From American Express.

3 Q. Whose American Express records are they?

4 A. The Holy Land Foundation.

5 Q. Okay.

6 MR. JONAS: Your Honor, we also offer to admit  
7 Marriott.

8 Q. (BY MR. JONAS) What is Marriott? What exhibit is that?

9 A. Marriott is the name of the exhibit for the Marriott  
10 Hotel records.

11 MR. JONAS: We offer to admit Philly Meeting No. 1  
12 through 18.

13 Q. (BY MR. JONAS) And what is that?

14 A. Those are the English transcriptions of the conversations  
15 at the meeting.

16 MR. JONAS: Your Honor, I will have to explain in a  
17 moment what we did with those.

18 Q. (BY MR. JONAS) And finally Philly Pictures 1 through 6?

19 A. Those were some of the surveillance photos that agents  
20 took back then.

21 Q. Okay.

22 MR. JONAS: Your Honor, with Philly Meeting No. 1  
23 through 18, which are the transcripts of this meeting that  
24 took place, we are offering it a little bit differently than  
25 the intercepted calls. We are offering the whole conference

1 into evidence. And I will have Agent Burns explain in a  
2 moment why it is divided into 18. So the audio disk, which  
3 would be Philly Meeting No. 1-A is a disk of that whole tape  
4 for that section.

5 But in addition, we are offering an excerpted transcript.  
6 So we have the full transcript and then an excerpted  
7 transcript, and that is Philly Meeting E. So if we have for  
8 example, No. 1 would be the full transcript, 1-A is the audio,  
9 and 1-E is the excerpt of that particular session of Philly.

10 THE COURT: You are offering No. 1, 1-A and 1-E.

11 MR. JONAS: Yes, sir, through No. 18, 18-A, and  
12 18-E.

13 MS. HOLLANDER: I just have a question. We don't  
14 have any objection to these, but is that the entire Philly  
15 meeting?

16 MR. JONAS: No. 1 through 18 is the entire Philly  
17 meeting.

18 MS. HOLLANDER: Okay. We don't object, as long as  
19 it is the entire meeting.

20 MR. JONAS: That is my understanding.

21 THE COURT: And the AMEX records is AMEX No. 1?

22 MR. JONAS: Yes, sir.

23 MS. HOLLANDER: We don't object to the others.

24 THE COURT: All right. Those are admitted, then.

25 Q. (BY MR. JONAS) Agent Burns, first of all, why is there

1       18 tapes or transcripts of the Philadelphia meeting?

2       A.     As I understand it, back in 1993 the equipment that the  
3           FBI used to record these conversations, it was some type of  
4           tape. I don't know if it was a cassette tape, or I believe it  
5           may have actually been one of those old reel to reels. But  
6           they were limited in length, so that once one was filled up  
7           they would have to remove it and replace it with a new tape.  
8           So we have a transcript for each tape that was made. So there  
9           were approximately 18 tape recordings of that meeting.

10      Q.     And did the FBI record this meeting pursuant to a court  
11       order?

12      A.     They did.

13      Q.     Was this part of the intelligence investigations of  
14       certain individuals?

15      A.     It was the intelligence investigation of Ashqar.

16      Q.     Agent Burns, there is a blank line about six names, seven  
17       names up from the bottom between the name Abu Ahmad and  
18       Mohammad El-Mezain. Can you explain why that is?

19      A.     Yes. Originally when preparing this chart there were  
20       individuals who were invited to attend the conference based on  
21       the planning calls, but that we affirmed did not attend for  
22       one reason or another. Those individuals were to be listed  
23       below that line as having been invited but not having  
24       attended.

25           However, there is I believe an error in that the second

1 individual listed, Mohamed Al Hanooti, should appear above the  
2 blank line, as there is other evidence that he did in fact  
3 attend.

4 Q. Is that other evidence contained within the evidence  
5 admitted?

6 A. Yes, it is.

7 Q. Agent Burns, I just want to pull up some of these  
8 documents?

9 MR. JONAS: If we can pull up AMEX 1, page 6,  
10 please.

11 Your Honor, I assume, just for the record, they are all  
12 admitted, the documents I offered into evidence?

13 THE COURT: Yes.

14 MR. JONAS: Thank you, sir.

15 Q. (BY MR. JONAS) Agent Burns, do you see any individuals  
16 who went to the Philadelphia conference on this page with  
17 particular charges?

18 A. Yes. I am going to look at my hard copy because it is a  
19 little bit difficult to read on my screen.

20 Q. We will zoom in as soon as you tell me which one to zoom  
21 in on.

22 A. Okay. Third from the top on the left side there, item  
23 No. 27 I believe it is called.

24 Q. Who is being paid for here?

25 A. Okay. On this -- Again, this is an American Express

1 bill. It lists the transaction date, which would be the date  
2 of purchase. It does not list the date of travel. So this  
3 shows that on September 3rd, 1993, a ticket was purchased for  
4 Haitham Maghawri from Dallas to Philadelphia. We do not know  
5 the exact travel date for that ticket.

6 MR. JONAS: Page 11, please.

7 Q. (BY MR. JONAS) Who is traveling now to Philadelphia?

8 A. At the bottom, the two entries there show that on  
9 September 10th, 1993, airline tickets were purchased for  
10 Shukri Abu Baker the Defendant, and also the Defendant Ghassan  
11 Elashi, from Dallas to Philadelphia.

12 MR. JONAS: Page 12, please.

13 THE WITNESS: I guess the entire middle section you  
14 can highlight.

15 This shows that on September 16th up in the upper left  
16 corner, September 16, 1993, that the Holy Land Foundation  
17 purchased an airline ticket for G. Saleh, who is Ghassan  
18 Saleh, from Dallas to Philadelphia.

19 Moving across the page, on September 17th, 1993, the Holy  
20 Land Foundation purchased an airline ticket for O. Amhad to  
21 Philadelphia, which would be Omar Ahmad.

22 Q. If I can interrupt you for a moment. Where have we seen  
23 Omar Ahmad's name on the Elbarasse documents?

24 A. Well, he was listed with the IAP, but also with the  
25 Palestine Committee, on the Elbarasse list of Palestinian

1 Committee members and the Ashqar list of Palestinian Committee  
2 members.

3 Q. And was he involved in that planning phone call that we  
4 played for this meeting?

5 A. Yes, he was.

6 Q. You testified that these are the HLF AMEX records?

7 A. Yes.

8 Q. Was Omar Ahmad an employee of the HLF?

9 A. No, he was not.

10 Q. Was he a board member?

11 A. No.

12 Q. Was he an officer?

13 A. No.

14 Q. Based upon the material that you reviewed, did he have  
15 any role with the HLF?

16 A. Only in respect to his role in the Palestinian Committee.

17 Q. Okay. Thank you.

18 MR. JONAS: If we can turn to page 14, please.

19 Q. (BY MR. JONAS) Whose tickets are the HLF paying for  
20 here?

21 A. This is Sharif Battikhi, the second from the top on the  
22 left column.

23 Q. We saw his name in a document the other day, didn't we?

24 A. We did.

25 Q. Who is he?

1 A. In 1991, he was appointed as a member of the HLF's board  
2 of directors.

3 Q. Okay.

4 MR. JONAS: If we can turn to page 12, back to page  
5 12.

6 Q. (BY MR. JONAS) Do you see any hotel bills here?

7 A. Yes. In the bottom on the it shows that the HLF paid the  
8 Courtyard by Marriott in Philadelphia \$116.41. And you can  
9 see the arrival and departure dates, so presumably this would  
10 be one room, october 1st through October 3rd.

11 MR. JONAS: Page 13, please.

12 Q. (BY MR. JONAS) Are they paying for more hotel rooms?

13 A. Yes. This entire page is filled with charges to the Holy  
14 Land Foundation's American Express bill for rooms at the  
15 Courtyard by Marriott in Philadelphia for that time period.

16 MR. JONAS: If we can go back to page 1 on this  
17 exhibit. Enlarge the top half, please.

18 Q. (BY MR. JONAS) Do we see -- I just want to confirm it  
19 says whose credit card this is?

20 A. The Holy Land Foundation, specifically Shukri Abu Baker's  
21 card.

22 Q. And do you see any other individual's names who have  
23 access to this card?

24 A. It says card member names down below, Shukri Abu Baker,  
25 the Defendant Mohammad El-Mezain, and Haitham Maghawri.

1 Q. Okay. Agent Burns, let's look at the Philly Pictures.  
2 If we can put up on the screen Philly Picture 1. You  
3 testified these are surveillance photos?

4 A. They are.

5 Q. Do you recognize this individual?

6 A. This person was identified as Ismail Elbarasse.

7 Q. And who is he again?

8 A. One of the IAP members; again, one of the Palestinian  
9 Committee members, whose home was search where we obtained  
10 most of these documents in Arabic that we have been  
11 discussing.

12 Q. Okay.

13 MR. JONAS: Philly Picture No. 2, please.

14 Q. (BY MR. JONAS) Do you recognize this individual?

15 A. Yes. This is a side view of the Defendant Ghassan Elashi  
16 in front of the hotel.

17 MR. JONAS: Philly Picture No. 3, please.

18 THE WITNESS: This is a picture of the Defendant  
19 Shukri Abu Baker and Ghassan Elashi.

20 MR. JONAS: Philly Picture No. 4, please.

21 THE WITNESS: Again, the Defendants Shukri Abu Baker  
22 and Ghassan Elashi.

23 MR. JONAS: No. 5, please.

24 Q. (BY MR. JONAS) Do you recognize these individuals?

25 A. The individual carrying the box is Haitham Maghawri and

1 the other individual has been identified as Mohamed Al  
2 Hanooti.

3 Q. Is Mohamed Al Hanooti a member of the Palestine  
4 Committee?

5 A. Yes.

6 Q. Pursuant to the Elbarasse documents you have looked at?

7 A. That is correct.

8 MR. JONAS: And finally No. 6.

9                   THE WITNESS: The individual in the very back in the  
10 glasses with the tie has been identified as Abdel Haleem  
11 Ashqar.

12 Q. And are there some other individuals who just happened to  
13 get in the picture?

14 A. I don't know who they are.

15 Q. Okay. I want to quickly go to the Marriott records.

16 MR. JONAS: If we can pull up Marriott page 1,  
17 please. Whose bill is this?

18 A. It has Shukri Baker's name at the top.

19 MR. JONAS: Next page.

20 Q. (BY MR. JONAS) Whose bill is this one?

21 A. Ghassan Saleh.

22 Q. Who is that?

23 A. This individual is Muin Shabib.

Q. Did you hear him on the tape speaking in Philadelphia?

25 A. They spoke about him in the call, in the planning call,

1 and that he would be an attendee.

2 Q. And was he actually there?

3 A. Yes, he was.

4 Q. What does this one indicate?

5 A. This, and a few of the following pages, are of the little  
6 signature cards that you sign at the hotel when you check in.  
7 This one is in the name, and you can see the original name it  
8 was in was Hasan Sabri, and then /Maghawri was written in, and  
9 it was signed at the bottom by Haitham Maghawri, the HLF  
10 officer.

11 Q. Okay.

12 MR. JONAS: Next.

13 Q. (BY MR. JONAS) What is happening here?

14 A. Again, this one says has the name Hasan Sabri with a line  
15 through it and then has Ghassan Saleh and Riad Ahmed written  
16 beside it. And I can't tell by whom it is signed.

17 Q. Okay.

18 MR. JONAS: Next.

19 Q. (BY MR. JONAS) Which one is this?

20 A. This one is for room 227 under the name of M. Abdulqader  
21 of Richardson, Texas.

22 Q. Who is that?

23 A. That would be the Defendant Mufid Abdulqader.

24 Q. It says void across it. Does that mean he wasn't there?

25 A. He had to have been there because he signed the card, and

1 that is his actual signature at the bottom. I don't know if  
2 the room was canceled -- I don't know why the word void was on  
3 there, but he had to have at least been present at the hotel  
4 to sign the signature card.

5 Q. What does it say in the top right hand side of this  
6 document?

A. It says "Believe to move to 307 or 301."

8 MR. JONAS: Let me jump to page 13 the Marriott  
9 records.

10 Q. (BY MR. JONAS) What is this one?

11 A. This one is the signature hard for room 401 originally in  
12 Hasan Sabri's name, then Mohammad El-Mezain's name is noted,  
13 and Haitham Maghawri signed for the room.

14 Q. Okay. Thank you. Did Mohammad El-Mezain attend?

15 A. No, he did not.

16 Q. Was that discussed in the Philadelphia meeting?

17 A. Yes.

18 Q. What was the reason for him not attending?

19 A. He was ill and not able to attend.

20 Q. Outside of the meeting did any of the Defendants publicly  
21 discuss what the purpose of the meeting was?

22 A. Yes.

23 Q. Who?

24 A. Shukri Abu Baker.

25 Q. If you have before you Baker Declaration, which is

1 already in evidence.

2 A. I do. Bear with me one second while I find it.

3 Q. Sure.

4 A. I have it.

5 MR. JONAS: If we can turn to the third page,  
6 please, and put that on the screen.

7 Q. (BY MR. JONAS) The bottom half where it says F, can you  
8 read that, please, Agent Burns?

9 A. Yes. He says in his sworn statement, "The 1993  
10 Philadelphia meeting was a meeting of Islamic intellectuals,  
11 academicians, community leaders, and representatives of  
12 American Islamic organizations, such as ours. It was not a  
13 meeting of any organization. No decisions were made by any  
14 organization about anything. Everyone there spoke their  
15 minds."

16 Q. At the Philly meeting was there an announcement made as  
17 to the actual purpose of the meeting?

18 A. Yes.

19 MR. JONAS: Your Honor, if we can play Philly  
20 Meeting 1 the first tape, segment B, please.

21 (Whereupon, Philly Meeting No. 1, Segment B was  
22 played, while questions were propounded.)

23 Q. (BY MR. JONAS) Did you see where it says, "Abou Ibrahim  
24 should have been with us but he is at the hospital for those  
25 that don't know"?

1 A. Yes.

2 Q. Is that your explanation for why Mohammad El-Mezain  
3 wasn't there, to your understanding?

4 A. Yes.

5 Q. In Shukri Baker's declaration did he say this is a  
6 meeting of the Palestine Committee?

7 A. No, he doesn't.

8 Q. Do you see where it says "union"?

9 A. I do.

10 Q. Is that correct?

11 A. It is correct, but it is not the --

12 MS. HOLLANDER: Excuse me. Who is speaking? The  
13 tape doesn't say who is speaking.

14 THE WITNESS: Omar Ahmad is the individual who is  
15 speaking in clip 1. Clip 2 I have to see the beginning of it.

16 Q. (BY MR. JONAS) We are still on clip 1.

17 A. We are still on clip 1? Then it was Omar Ahmad.

18 Q. It says "union." Is that supposed to be Union?

19 A. Union was originally how the word for association was  
20 translated. That should be association, meaning the Islamic  
21 Association for Palestine.

22 Q. I was corrected. This is the B clip, not the A clip.

23 Does it say who the speaker is on the transcript? If it would  
24 help, I can give you mine.

25 A. I have it. Omar Ahmad.

1 Q. Okay. When Omar Ahmad announced that this was a meeting  
2 of the Palestine Committee, was Shukri Baker in the room?

3 A. Yes.

4 Q. How do you know that?

5 A. Because he spoke like within a minute before Omar Ahmad  
6 announced this.

7 MR. JONAS: If we can turn to page 3 of the excerpt.  
8 If we can get that on the screen, please, Philly meeting 1-E,  
9 page 3.

10 Q. (BY MR. JONAS) Do you see that, Agent Burns?

11 A. I do.

12 Q. Okay. Do we see Shukri Baker speaking?

13 A. Yes, we do.

14 Q. Does this area, this excerpt identify what his role is to  
15 be in this conference?

16 A. It does. It indicates that -- would you like me to read  
17 it?

18 Q. Sure. Go ahead.

19 A. Omar Ahmad says, "The third session, who has papers?  
20 Gawad. The third session, who has papers for it? From the  
21 beginning, the first session we have Sheik Sharif and brother  
22 Abdel Salam, brother Gawad, and Aboul Hasan, Abdel Halim.  
23 Anyone else? Did you write them down? The second session,  
24 guys, stay with me so that we could finish. The second  
25 session we have Osama, Mo'een, and Shukri Abu Baker. And it

1 will be about charity work. Anyone else? The third session  
2 will be about political media and popular activism and PR. We  
3 have Ghassan, Saleh, Gawad, and Abdel Rahman, Nihad and Akram.  
4 Anyone else? Who is going to be the moderator of the 1st  
5 session?"

6 And he goes on, and down farther where Ghassan is  
7 speaking he says, "Regarding the 1st session, Shukri should be  
8 the moderator."

9 Q. By the way, Agent Burns, does each transcript, for either  
10 the full transcript or the excerpted transcript, identify the  
11 speakers for that particular transcript?

12 A. Yes. On the very first page of each transcript.

13 Q. So where we have initials on the attributions as to who  
14 is speaking, all one has to do is go to the first page of the  
15 transcript and they can see who that person is. Is that  
16 correct?

17 A. That is correct. And with each transcript, different  
18 speakers will probably be identified. So on one transcript  
19 you may have five or six people, and on another transcript you  
20 may have ten people.

21 Q. And did Shukri Baker in fact moderate any sessions?

22 A. He did.

23 Q. Okay. Agent Burns, did Shukri Baker the Defendant talk  
24 about presenting a cover for this Philadelphia meeting in case  
25 anyone asks?

1 A. He did.

2 MR. JONAS: If we can turn to Philly Meeting No. 3.

3 Q. (BY MR. JONAS) Before I ask you about that one, did they  
4 jump around in subject matter during their sessions?

5 A. Yes. As you can see, the conference was organized into  
6 sessions according to topic, but they did venture off of topic  
7 on several occasions, and then they would try to get back on  
8 topic. But they do venture around.

9 Q. Okay. So we may venture around ourselves, then?

10 A. Yes, we will be doing that.

11 Q. Okay.

12 MR. JONAS: If we can turn to Philly Meeting No. 3,  
13 page 3. This is the excerpted one, Philly Meeting No. 3-E.

14 THE WITNESS: I have it.

15 Q. (BY MR. JONAS) Do can you have it before you?

16 A. I do.

17 Q. This is a short one so we will just read it. Do you see  
18 the second from the top segment? Can you read what Shukri  
19 Baker says about the meeting?

20 A. "My brothers, this talk is to be continued, God's  
21 willing. There are remarks now. Please don't mention the  
22 name Samah in an explicit manner. We agree on saying it as  
23 sister Samah. We will talk about her honor, and the session  
24 is -- the session here is a joint workshop between the Holy  
25 Land Foundation and the IAP. This is the official form. I

1 mean, please in case some inquired."

2 Q. Agent Burns, going back to your Philly Meeting Summary  
3 Chart, under organizations you list several organizations--PC,  
4 HLF, IAP, depending upon the individual. Can you explain  
5 that, please?

6 A. Yes. Individuals who are affiliated with various  
7 organizations, according to the evidence that has already been  
8 presented, their affiliations are noted in that column. For  
9 example, with the Defendant Shukri Abu Baker we have seen  
10 documents that we have are introduced here showing that he was  
11 a member of the Palestinian Committee and the HLF, and we have  
12 seen his deposition testimony where he admitted being a member  
13 of the IAP's advisory board. Therefore, all three  
14 organizations are noted beside his name.

15 Q. Okay. And that continues throughout this chart?

16 A. That is correct.

17 Q. Okay. So Shukri Baker, what you just read, says, "In  
18 case someone inquired, the session here is a joint session  
19 between the Holy Land Foundation and the IAP." Is everyone  
20 who attended, pursuant to your summary, a member of the HLF or  
21 part of the HLF or the IAP?

22 A. No.

23 Q. Okay. He uses -- He uses a term sister Samah. Does he  
24 talk about that in his declaration what sister Samah meant in  
25 this Philly conference?

1 A. In his sworn statement he does, yes.

2 MR. JONAS: If we can pull up Baker Declaration,  
3 page 4, please.

4 Q. (BY MR. JONAS) What does Shukri Baker say about the term  
5 Samah?

6 A. He says, "The use of the word Samah was a whimsical and  
7 ironic" --

8 MS. HOLLANDER: Would you have her read it from the  
9 beginning?

10 Q. (BY MR. JONAS) There is a word at the top right.

11 A. I am sorry. "Some people at the meeting spoke of Hamas  
12 openly, and there was no reason for them not to, since Hamas'  
13 role in Palestine was a natural subject of discussion, and  
14 Hamas was not a banned organization at that time. The use of  
15 the word Samah was a whimsical and ironic play on words.  
16 Samah means forgiveness in Arabic, and in my opinion those who  
17 used the term were making ironic fun of Hamas, not adopting a  
18 secret term to disguise their references to the organization."

19 Q. So, Agent Burns, in what we just read a moment ago when  
20 he says sister Samah, according to this declaration he is  
21 meaning sister forgiveness?

22 A. If you believe what he says in his declaration.

23 Q. Do you know what Samah is backwards?

24 A. Yes.

25 MR. JONAS: Your Honor, can I just use the elmo,

1 please?

2 Q. (BY MR. JONAS) Do you see what I wrote?

3 A. I do.

4 Q. What did I write? What word that is?

5 A. Reading left to right it is Samah.

6 Q. Okay. What is Samah backwards?

7 A. Hamas, which interestingly in reading Arabic you read  
8 from the right to the left.

9 MR. JONAS: Go back to the screen, please.

10 Q. (BY MR. JONAS) What meaning did the word Samah have in  
11 the conference?

12 A. It was a code word for Hamas.

13 Q. And is that identified in the conference?

14 A. Yes, it is.

15 MR. JONAS: Can you turn to Philly meeting 4-E? We  
16 are going to play segment A, please.

17 (Whereupon, Philly Meeting No. 4, Segment A was  
18 played, while questions were propounded.)

19 Q. (BY MR. JONAS) Agent Burns, have we seen any documents  
20 during the course of your testimony to indicate who was going  
21 to commit jihad to liberate Palestine?

22 A. Yes.

23 Q. What document?

24 A. Hamas, according to the Hamas charter.

25 Q. The first thing, or one of the first things we saw on

1       that one, GA, which is who?

2       A.     Gawad.

3       Q.     Gawad says, "Hamas...the Samah Movement. I mean Samah."

4       Did Shukri Baker express any concern over using the word Hamas  
5       during the course of this conference?

6       A.     Yes, he did.

7                    MR. JONAS: If we go back to Philly Meeting No. 3,  
8       page 3. This is a short one. The third segment.

9       Q.     (BY MR. JONAS) Can you read that segment Agent Burns?

10      A.     Yes. Let me find out who AU is. Aboul Osama is  
11       speaking. He says, "As far as the police is concerned, there  
12       is a good reaction to it. Expectations are that -- It depends  
13       on the media if we managed to reach the people."

14      An unknown male says, "What about people's opinions?"  
15       "That depends."

16      Unknown male asks, "Is this against Hamas?"

17      Shukri Abu Baker says, "Didn't we say not to mention that  
18       term?"

19      Unknown male then says, "Is it against the Movement?"

20      Q.     Agent Burns, have we seen the term Movement used in this  
21       case?

22      A.     Yes, we have.

23      Q.     What does that mean?

24      A.     It is short for the Islamic Resistance Movement, which is  
25       Hamas.

1 Q. Is the Philadelphia meeting the only time you have seen  
2 the word Samah used?

3 A. No.

4 Q. When else have you seen it?

5 A. Phone calls.

6 Q. Do you have before you Baker Wiretap No. 4?

7 A. I do.

8 Q. And who are the participants on that call?

9 A. Shukri Abu Baker the Defendant, and Abdel Haleem Ashqar.

10 Q. What is the date of the call?

11 A. January 11th, 1996.

12 MR. JONAS: Your Honor, at this time I would offer  
13 into evidence Baker Wiretap No. 4 and 4-A.

14 THE COURT: Admitted.

15 MR. JONAS: If we can play that, please.

16 (Whereupon, Baker Wiretap No. 4, 4-A was played,  
17 while questions were propounded.)

18 Q. (BY MR. JONAS) Agent Burns, do you see where Shukri  
19 Baker says, "visited their aunt's house"?

20 A. I do.

21 Q. Have you seen that term used before?

22 A. I have.

23 Q. Where?

24 A. I have seen it in some of the evidence here; none that we  
25 have discussed yet.

1 Q. Without giving your understanding of it, is it a word  
2 that -- In the context that you have seen it, not just in this  
3 call, but other contexts, is that a code word?

4 A. It is a code word.

5 Q. Okay. Agent Burns, do you see where it says, "he claims  
6 a relation to her, this Hajja Samah"?

7 A. I do.

8 Q. Using the definition as applied in Baker's declaration,  
9 the sworn statement, would that mean Hajja forgiveness?

10 A. If you look at his statement, but it makes no sense in  
11 this context.

12 Q. Have you seen the term Hajja before?

13 A. Yes.

14 Q. Do you know what that means?

15 A. It can be translated as sister. It is more of a  
16 respected female, but it can be translated as sister.

17 MS. CADEDDU: I object to her opining about what  
18 things mean in Arabic. She is not an expert or translator.  
19 She doesn't speak Arabic.

20 THE COURT: Overrule that objection. She may  
21 testify to her understanding. Go ahead.

22 Q. (BY MR. JONAS) And is sister Samah the term that we have  
23 seen used in the Philadelphia meeting?

24 A. It is.

25 Q. Agent Burns, do you see the term "old man"?

1 A. I do.

2 Q. Have you seen that term used before?

3 A. I have seen that term used in the context of this issue  
4 and this evidence to mean Yasser Arafat.

5 Q. Agent Burns, have you seen the use of the term Samah in  
6 other calls?

7 A. Yes.

8 Q. We will save them for later.

9 A. Okay.

10 Q. All right. You testified that at the time of the  
11 Philadelphia meeting the Oslo Accords had just come out.  
12 Correct?

13 A. That is correct.

14 Q. Per the Hamas charter, what was Hamas' position on the  
15 Oslo Accords?

16 A. Well, according to the Hamas charter they were opposed to  
17 any type of peaceful compromise with the Israelis. The  
18 charter predated the Oslo Accords, the signing of the Oslo  
19 Accords.

20 Q. Did the participants in the Philadelphia meeting discuss  
21 moving in the same direction as Hamas on this issue?

22 A. They did.

23 MR. JONAS: If we can play Philly Meeting No. 2-E,  
24 Segment A, please.

25 (Whereupon, Philly Meeting No. 2-E, Segment A was

1                         played, while questions were propounded.)

2 Q. (BY MR. JONAS) Agent Burns, what is the Fund?

3 A. That is the Holy Land Foundation.

4 Q. Agent Burns, do you see where it says, "The programs or  
5 the organizations overall should be in complete harmony with  
6 the general directions of the Movement"? What is the  
7 Movement?

8 A. The Islamic Resistance Movement, Hamas.

9 Q. Who is Abou Ibrahim?

10 A. The Defendant Mohammad El-Mezain.

11 Q. Agent Burns, the individual I believe was Gawad who was  
12 speaking, talked about moving in directions. They talked  
13 about the Movement being Hamas. Did Defendant Shukri Baker  
14 also talk about moving in particular directions?

15 A. He did.

16                         MR. JONAS: Okay. If you will turn to Philly  
17 Meeting No. 6-E. If we can play Segment A, please.

18                         (Whereupon, Philly Meeting No. 6-E, Segment A was  
19                         played, while questions were propounded.)

20 Q. (BY MR. JONAS) Who is speaking here?

21 A. This is the Defendant Shukri Abu Baker.

22 Q. Okay. Agent Burns, do you see where Shukri Baker says,  
23 "We used to have an approach which probably had a glaring  
24 color, I mean, the jihadist [address], and this and that,  
25 focus on activism even through our lectures, conferences and

1 seminars"?

2 You said you viewed videotapes, which we have seen some,  
3 and I assume we will see more.

4 A. Yes.

5 Q. In those videotapes, did many of them predate the  
6 Philadelphia conference?

7 A. They do.

8 Q. The ones that predate Philadelphia, are they of the same  
9 nature of the ones we saw already talking about Hamas, Hamas  
10 symbols on the screen, et cetera?

11 A. The ones that predate the Philadelphia meeting, yes.

12 Q. The ones that postdate Philadelphia, does the nature of  
13 them change?

14 A. Yes. They are very toned down.

15 Q. Did you hear the Defendant Shukri Baker use the term  
16 "derailment"?

17 A. Yes.

18 Q. Used it a few times. Is that correct?

19 A. That is correct.

20 Q. Did any of the other participants discuss derailment?

21 A. Yes.

22 MR. JONAS: If we can turn to Philly Meeting No.  
23 10-E, Segment D.

24 One moment, Your Honor.

25 THE COURT: Yes.

1                   MR. JONAS: Your Honor, we are about to play about  
2 four segments in a row, if you are ready to take a break.

3                   THE COURT: This is a good time to break? Let's  
4 take a 20-minute break. Let's be back at 20 till.

5                   (Whereupon, the jury left the courtroom.)

6                   THE COURT: All right. We will be in recess, 20  
7 till.

8                   (Brief Recess.)

9                   THE COURT: All right.

10                  Mr. Jonas?

11                 Q. (BY MR. JONAS) Agent Burns, before the break we had  
12 played a statement where the Defendant Shukri Baker used the  
13 term derailment a few times. And I believe I asked you, was  
14 the term derailment used which other participants in this  
15 Philadelphia meeting?

16                 A. Yes, it was.

17                 Q. What was the context?

18                 A. They were discussing how to derail the Oslo Peace  
19 Accords.

20                 MR. JONAS: If we can play Philly Meeting No. 10,  
21 Segment D.

22                 (Whereupon, Philly Meeting No. 10, Segment D, E, F,  
23 and K was played, while questions were propounded.)

24                 Q. (BY MR. JONAS) Agent Burns, in the top right hand side  
25 it says D-E-R-A on the screen. What word is that in your

1 transcript?

2 A. That would be the word derail.

3 Q. Cut off here?

4 A. Apparently it is off center a little bit.

5 Q. Okay. Who is AS that is doing the speaking?

6 A. I will confirm from the front page. That is Abdel Haleem  
7 Ashqar.

8 Q. Ashqar. Okay.

9 Agent Burns, did the Defendant Shukri Abu Baker talk  
10 about his position on peace agreements in his declaration?

11 A. Yes.

12 Q. If we can look at Baker declaration, page 2 paragraph 7.

13 MR. JONAS: Put that on the screen, please.

14 Q. (BY MR. JONAS) What does Shukri Baker say regarding his  
15 support for peace?

16 A. He says "Neither I, nor to my knowledge any of the other  
17 founders of this charity, have had any connection whatever to  
18 Hamas, or to any terrorist groups or to terrorism. I do not  
19 believe that suicide bombing is countenanced by the Islamic  
20 religion. I have always opposed radicalism. I have always  
21 been for dialogue and for peace, and I am firm in these  
22 convictions. I am confident that the other founders of the  
23 Holy Land Foundation feel the same way. Our objective was and  
24 has always been simply to alleviate suffering in Palestine and  
25 elsewhere."

1 Q. Does he talk about derailing the peace accords in his  
2 declaration?

3 A. No, he does not.

4 MS. HOLLANDER: Your Honor, I would like to voice an  
5 objection. The Oslo Accords were not peace accords, and the  
6 Government keeps using the term peace accord. The Oslo Accord  
7 was the Oslo Accord. It was not a peace agreement.

8 THE COURT: You may cross examine Agent Burns on  
9 that when your turn comes, counsel.

10 Go ahead.

11 Q. (BY MR. JONAS) During back to the Philadelphia meeting,  
12 did the Defendant Shukri Abu Baker discuss the support that  
13 the organizations must give to Hamas?

14 A. Yes.

15 MR. JONAS: If we can go to Philly Meeting No. 12,  
16 Segment A, please, from the excerpt.

17 (Whereupon, Philly Meeting No. 12, Segment A was  
18 played, while questions were propounded.)

19 Q. (BY MR. JONAS) Again, Agent Burns, what is the Movement?

20 A. That is the Islamic Resistance Movement, Hamas.

21 Q. Agent Burns, how does Shukri Baker refer to what is going  
22 on with the Oslo Accords in this attribution right here?

23 A. In this attribution he refers to the Oslo Accords as the  
24 peace project.

25 Q. Agent Burns, based upon your review of the Elbarasse

1 records, which are in evidence here, was there one of the  
2 organizations of the Palestine Committee that functioned as a  
3 think tank?

4 A. The United Association for Studies and Research was what  
5 its title said, a research center, which would be a think  
6 tank.

7 MR. JONAS: If we can play Segment B of Philly  
8 Meeting No. 12-E.

9 (Whereupon, Philly Meeting No. 12-E, Segment B was  
10 played while questions were propounded.)

11 Q. (BY MR. JONAS) Agent Burns, who is speaking here?

12 A. This is Shukri Abu Baker.

13 Q. Okay. Agent Burns, did the participants in the  
14 Philadelphia meeting ever discuss what they can and cannot  
15 officially say in regard to their positions?

16 A. Yes.

17 MR. JONAS: If we can turn to Philly Meeting No. 5  
18 and play Segment F.

19 (Whereupon, Philly Meeting No. 5, Segment F was  
20 played, while questions were propounded.)

21 Q. (BY MR. JONAS) Agent Burns, who is speaking?

22 A. This is Gawad.

23 Q. On here it says GA, on the transcript, GA. Is Gawad on  
24 the Philadelphia meeting list of people who were there?

25 A. Yes. It is spelled with a J. Here they use the G and

1 the J interchangeably on his name. So Gawad is the same as  
2 Jawad.

3 Q. Did any of the participants in the Philadelphia meeting  
4 discuss how they would go about supporting the resistance?

5 A. They did.

6 MR. JONAS: If we can play Segment G of Philly  
7 Meeting No. 5.

(Whereupon, Philly Meeting No. 5, Segment G was played, while questions were propounded.)

10 Q. (BY MR. JONAS) Agent Burns, where the Defendant Shukri  
11 Abu Baker says, "You Virginia guys got us in trouble," were  
12 there people from Virginia who attended this meeting?

13 A. Yes.

14 | O. Who?

15 A. One of them was Muin Shabib was in Virginia at that time.

#### Q. How about Elbarasse?

17 A. He was as well.

18 Q. Did any of the participants, in particular the Defendant  
19 Shukri Abu Baker, express any concern about Hamas being  
20 labeled as a terrorist organization?

21 A. They did.

22 MR. JONAS: If we can play Philly No. 5, Segment H.

23 (Whereupon, Philly Meeting No. 5, Segment H was  
24 played, while questions were propounded.)

25 O. (BY MR. JONAS) Agent Burns, did you see where it says Al

1 Zatounia?

2 A. I do.

3 Q. Have we seen Al Zatounia referenced in the Elbarasse  
4 records?

5 A. I believe it was referenced in one of the documents as  
6 one of the periodicals.

7 Q. Periodicals published by whom?

8 A. The IAP.

9 MR. JONAS: Play the next segment, Philly No. 5,  
10 Segment I.

11 (Whereupon, Philly Meeting No. 5, Segment I was  
12 played, while questions were propounded.)

13 Q. (BY MR. JONAS) Agent Burns, you see where Shukri Baker  
14 -- Is he the one speaking?

15 A. He is.

16 Q. He talks about "Our brothers in the occupied territories  
17 will pretend to go along with the self-rule, and none of their  
18 societies will be shut down." During the course of your  
19 testimony have we talked about any societies that belong to  
20 Hamas?

21 A. The Islamic Center of Gaza would be one.

22 Q. That was the one that was founded by Sheikh Yassin?

23 A. That is correct. That the HLF gave money to in the early  
24 years.

25 Q. Agent Burns, do you see where Shukri Baker uses the word

1 Samah again?

2 A. I do.

3 Q. And under his definition would that say, then, "America  
4 will classify forgiveness as a terrorist organization," if you  
5 used the definition he provided in his declaration?

6 A. If you use the definition he provided in his sworn  
7 declaration, in this context it makes no sense.

8 Q. Agent Burns, are you familiar with the al-Aqsa  
9 educational that is in quotes there?

10 A. I am.

11 Q. Is that an entity we are going to talk about in a little  
12 while?

13 A. That is an entity that we actually spoke about on  
14 Thursday, Abdel Haleem Ashqar's educational fund.

15 Q. Ashqar is again who?

16 A. A member of the Palestine Committee.

17 Q. He was a participant in the Philadelphia meeting?

18 A. That is correct.

19 MR. JONAS: If we can play from Philly Meeting No.  
20 5, Section J.

21 (Whereupon, Philly Meeting No. 5, Section J was  
22 played, while questions were propounded.)

23 Q. (BY MR. JONAS) Agent Burns, at the time of the  
24 Philadelphia meeting in 1993, had Hamas been officially  
25 designated as a terrorist organization by the United States?

1 A. No. Actually the mechanism for designating an  
2 organization as a terrorist did not exist at the time of this  
3 conference.

4 Q. Are you aware if the United States in any way recognized  
5 Hamas as a terrorist organization at around this time?

6 A. After the Oslo Accords, the U.S. State Department came  
7 out and named them as a terrorist organization, but it did not  
8 have the same effect as what an official designation would  
9 later on.

10 Q. What was that document that it came out in?

11 A. Generally they print these things in what is called --  
12 They have a pamphlet called The Patterns of Global Terrorism.

13 MR. JONAS: Finally, if we can turn to Philly  
14 Meeting No. 6 and play segment D.

15 (Whereupon, Philly Meeting NO. 6, Segment D was  
16 played, while questions were propounded.)

17 Q. (BY MR. JONAS) Agent Burns, who is speaking now?

18 A. This is the Defendant Shukri Abu Baker.

19 Q. Okay. Agent Burns, did the participants discuss what  
20 they can and cannot say to America?

21 A. They did.

22 MR. JONAS: If we can play Philly Meeting No. 6,  
23 segment E.

24 (Whereupon, Philly Meeting No. 6, Segment E was  
25 played, while questions were propounded.)

1 Q. (BY MR. JONAS) Agent Burns, who is speaking now?

2 A. This speaker is an unidentified male.

3 Q. Agent Burns, are you familiar with what is termed the  
4 1948 territories?

5 A. Yes.

6 Q. What does that mean? What is your understanding of what  
7 that means?

8 A. That means Israel as it exists. Israel was established  
9 in 1948, so if you are requesting the 1948 territories you  
10 want the land that is now considered Israel.

11 Q. Agent Burns, what document have we seen that discusses  
12 demanding the 1948 territories?

13 A. The Hamas charter.

14 Q. Are there other times when they discuss what they can and  
15 cannot say to the Americans?

16 A. Yes.

17 MR. JONAS: If we can play Philly Meeting No. 7,  
18 Segment A.

19 (Whereupon, Philly Meeting No. 7, Segment A was  
20 played, while questions were propounded.)

21 Q. (BY MR. JONAS) Who is speaking here?

22 A. This is an unknown male.

23 Q. And this unknown male refers to Shukri. Was there any  
24 other Shukri at the Philadelphia meeting besides the Defendant  
25 Shukri Baker?

1 A. No.

2 Q. Agent Burns, you see where it says, "You can try to  
3 convince people from behind saying tone it down a little"?

4 A. I do.

5 Q. Is that consistent with what you testified earlier about  
6 the videotapes of the conferences, toning it down post  
7 Philadelphia meeting?

8 A. Yes.

9 Q. Agent Burns, do you see -- Who is OM that is speaking?

10 A. That is Omar Ahmad.

11 Q. Do you see where he references Sheik Omar Abdel Rahman?

12 A. I do.

13 Q. Do you know who that individual is?

14 A. Yes.

15 Q. Who is that?

16 A. He is one of the individuals who is currently  
17 incarcerated for his role in the plotting of the first World  
18 Trade Center bombing.

19 Q. Which occurred in the early '90s?

20 A. In 1993.

21 Q. He is not a member of the Palestine Committee, is he?

22 A. No, he is not.

23 Q. Was he part of this meeting at all?

24 A. No, he was not.

25 Q. Other than a reference to him here, does he have any

1 involvement to the Defendants, based upon the evidence that  
2 you have seen?

3 A. Not based on the evidence that we have discussed, no.

4 Q. (BY MR. JONAS) Did the Defendant Shukri Abu Baker  
5 discuss deception?

6 A. He did.

7 Q. If we can, staying with Philly Meeting No. 7, do you have  
8 page 6 before you?

9 A. I do.

10 Q. We will put it on the screen and read this one. It is  
11 fairly short. I believe it is page 5, the second segment  
12 there. Who is speaking?

13 A. That is the Defendant Shukri Abu Baker.

14 Q. Okay. Can you read this segment?

15 A. He says, "I swear by your God that war is deception. War  
16 is deception. We are fighting our enemy with a kind heart and  
17 we never thought of deceiving it. War is deception. Deceive,  
18 camouflage, pretend that you're leaving while you're walking  
19 that way. Or do we have to be -- Deceive your enemy."

20           Omar Ahmad says, "This is like one who plays basketball.  
21 He makes a player believe that he is doing this while he does  
22 something else. I agree with you. Like they say, politics is  
23 a completion of war."

24           Shukri Abu Baker says, "Yes, politics, like war, is a  
25 deception."

1 Q. Agent Burns, in 1993 when the Philadelphia meeting took  
2 place, what was the Holy Land Foundation supposed to be?

3 A. A Muslim charity.

4 Q. Did this discussion of war being deception come up again?

5 A. It did.

6 MR. JONAS: If we can turn to Philly Meeting No.

7 12-E. If we can play Segment E of Philly meeting 12.

8 (Whereupon, Philly Meeting No. 12-E, Segment E was  
9 played, while questions were propounded.)

10 Q. (BY MR. JONAS) Agent Burns, who is speaking here?

11 A. I believe it was -- I need to look at the beginning of  
12 it, or if you can tell me what page it is on in the  
13 transcript.

14 Q. On the excerpt it is page 6.

15 A. Unknown male.

16 Q. Okay. You see he says, "The first goal is to continue to  
17 support the Palestinian cause and defending the Movement's  
18 positions," what is the Movement?

19 A. The Islamic Resistance Movement, Hamas.

20 Q. Agent Burns, do you see where it says, "Working to make  
21 the Islamic Association for Palestine the main source of  
22 information which represents the movement's positions," who  
23 published the Hamas charter in the United States?

24 A. The IAP.

25 Q. Is that the Islamic Association for Palestine?

1 A. Yes, it is.

2 Q. Agent Burns, who is SH that says "It should lie"?

3 A. That is the Defendant Shukri Abu Baker.

4 Q. Agent Burns, did you see where it said, "Learn from your  
5 masters in the Fund"? What is the Fund?

6 A. The Holy Land Foundation.

7 Q. Agent Burns, do you have the last page of Philly segment  
8 12-E before you? There is just one line there that is the  
9 last segment?

10 A. I do.

11 MR. JONAS: If we can put that last page, page 8  
12 open the screen, please.

13 Q. (BY MR. JONAS) Agent Burns, just one line. What does  
14 Shukri Baker say, the last line in the excerpted transcript?

15 A. He says, "Your mother Samah is the mother of democracy."

16 Q. Did Shukri Baker the Defendant say anything about what he  
17 can and cannot say to America about his relationship to Hamas?

18 A. He did.

19 MR. JONAS: If we turn to Philly Meeting No. 8, in  
20 the excerpts if you can turn to page 3. Can we get page 3 on  
21 the screen, please?

22 Q. (BY MR. JONAS) Agent Burns, starting with the top where  
23 it says UM, "I can repeat the text," can you read the rest of  
24 this segment please?

25 A. "I can repeat the text if that is going to solve the

1 problem. We can say attacking the -- the credibility of the  
2 representation of the Organization, the Organization's right  
3 to sign an accord on behalf of the Palestinian people."

4 Q. Let me pause you for a moment. Which organization signed  
5 the Oslo Accords on behalf of the Palestinian people?

6 A. The Palestine Liberation Organization.

7 Q. Okay. Continue.

8 A. Gawad says, "No, he didn't sign as the Organization. He  
9 signed as Abu Ammar. He didn't sign as the Organization."

10 Unknown male says, "No, he signed the Palestinian people.  
11 What's his name? Abu Abbas signed as the Palestinian  
12 delegation."

13 Gawad said, "But not even one major democratic  
14 Palestinian organization until now has --"

15 Unknown male says, "This is the point. This is the  
16 point."

17 Shukri Abu Baker said, "This is what they understand --  
18 Abu, Abu. This is what they understand. Currently Abu Ammar  
19 is the chairman of the PLO. Our brothers, we cannot use the  
20 same poetic Arabic style when addressing the American  
21 mentality. Our brother, the American will not understand it.  
22 Please allow me. They will tell you, 'If he doesn't represent  
23 you, why the hell don't you get rid of him?' He will tell  
24 you, 'If he doesn't represent you, who represents the  
25 Palestinian people?'"

1           Unknown male says, "We should drop the Arafat issue now.  
2        We're talking about the Organization."

3           Shukri Abu Baker says, "These are very critical  
4        questions. We're replying to the question. It is very  
5        critical."

6           Unknown male, "If he is democratic."

7           Shukri Abu Baker says, "I cannot say to him that I'm  
8        Hamas."

9           MR. JONAS: If we play the next segment of Philly  
10      Meeting No. 8, which is Segment B.

11           (Whereupon, Philly Meeting No. 8, Segment B was  
12      played, while questions were propounded.)

13   Q.    (BY MR. JONAS) Agent Burns, do you see where it says, "I  
14   mean, in the same style as Samah's"?

15   A.    Yes.

16   Q.    Would that mean "in the same style of forgiveness"?

17   A.    No, it doesn't.

18   Q.    Who is speaking right now?

19   A.    Shukri Abu Baker is.

20   Q.    And Omar Yehia is who?

21   A.    That is the same as Omar Ahmad the IAP member/Palestinian  
22   Committee member who has been speaking quite frequently  
23   throughout this.

24   Q.    Shukri Baker says, "You can go meet a Congressman in your  
25   name, in Omar Yehia's name, in the name of the Association's

1 present, and tell him [UI] doesn't represent us. Mr. Ahmad  
2 Yassin represents us." Who is Ahmed Yassin?

3 A. The Hamas founder, the former spiritual leader that is on  
4 your board there in the middle on the top.

5 Q. The top, Sheikh Ahmed Yassin?

6 A. That is correct.

7 MR. JONAS: If we can stay with Philly Meeting No.  
8 8, page 5 of the Philly meeting 8-E, the excerpted portion,  
9 the top half, please.

10 Q. (BY MR. JONAS) Agent Burns, if you can read what Shukri  
11 Baker says at this point in the meeting?

12 A. He says, "The point you presented which is -- which is  
13 withdrawing, attacking his credibility as a representative and  
14 a leader of the Palestinian people. But I tell you that we  
15 don't want the American front to become a front for direct  
16 conflict. These things will put us in direct conflict, not  
17 only with the Palestinians, even with the official government  
18 circles. What is our benefit? What is our interest? As  
19 Palestinian action organizations in America, what is our  
20 benefit in creating more enemies than necessary? What is the  
21 interest that -- Are you going to win the Palestinian cause if  
22 this guy who works at McDonald's, the worker who works there  
23 for \$4 an hour understands whether Abu Ammar represents us or  
24 not, or the Congressman? If you explain the situation to him  
25 that he is -- and doesn't represent the Palestinian people, is

1 he going to tell you, 'Yes, by God, you convinced me.'

2 Despite that everything goes as planned. The point is that we

3 are not going to expose ourselves to another wave and be

4 anti-establishment -- anti-establishment. Okay? Because for

5 the American organizations, if you're against peace you're a

6 terrorist. When you start attacking Abu Ammar, his

7 leadership, the people who signed and attended and arranged

8 their affairs with -- such as a Saudi person who attacks the

9 Saud family and say that he is not a ruler, my brother, let

10 him --"

11 Unknown male says, "Okay. Amazing. But brother, please

12 finish."

13 Q. That is fine. Were there any other discussions regarding

14 their presentation or their face to America?

15 A. Yes.

16 Q. Were there several more discussions regarding that topic?

17 A. Yes.

18 Q. In fact, was that the subject matter of this whole

19 conference, this whole meeting?

20 A. Yes.

21 MR. JONAS: Let's look at one more. Philly Meeting

22 No. 10 in the excerpt page 2. Can you get that on the screen,

23 please, the bottom half?

24 Q. (BY MR. JONAS) Agent Burns, are you up to reading one

25 more?

1 A. Okay. Gawad says, "America and the American, in order to  
2 convince the people, because everybody is convinced; the  
3 Americans are convinced and the Jews. People must -- On the  
4 ground they're happy with the flag now, but the flag will last  
5 one week, two weeks, or a month. And what is after that? We  
6 need bread. This will be -- The propaganda will be spread  
7 will affect Hamas. In the meanwhile, are you going to collect  
8 a million? Not a million for instance. The media and  
9 political support for the Cause in general terms, and to the  
10 rights of the Palestinian people specifically will be  
11 negatively affected in my opinion. Why? First, the  
12 organizations which work on these issues are American and they  
13 deal from the -- from America's mentality. A prominent  
14 example for that is the occupation. The U.S. government used  
15 to call it occupation, and used to reject its measures and  
16 reject this and that, and used to call to the implementation  
17 of the Geneva agreement. This was the official America, State  
18 department and otherwise. It tried to, because all became a  
19 United Nations, so you no longer have the right to resist the  
20 occupation. All of that will be classified according to the  
21 American concept. There is no occupation now. There is an  
22 understanding and there are no weapons to be carried because  
23 there is no occupation to be fought. There is no more  
24 suffering because of the occupation. Suffering now is on the  
25 hands of the local government. This will be classified as

1      terrorism according to America. How are you going to do it?  
2      How are you going to perform jihad?"

3      Q.     Okay. Agent Burns, have we already heard in some of the  
4      calls or some of the segments that we have played or read a  
5      discussion for a new organization?

6      A.     Yes.

7      Q.     Has that discussion -- did that happen several times  
8      where they discussed creating a new organization?

9      A.     It did.

10     Q.     Okay.

11            MR. JONAS: If we can turn to Philly Meeting No. 5,  
12      and the excerpt if we can get page 1 on the screen, please.

13     Q.     (BY MR. JONAS) Agent Burns, I will give your voice a  
14      break and I will just read this one.

15            Unknown male 2 says, "In my opinion, we must form a new  
16      organization for activism which will be neutral because we are  
17      placed in a corner. We are placed in a corner. It is known  
18      who we are. We are marked. And I believe that there should  
19      be a new neutral organization which works on both sides so  
20      that -- because this state is coming no matter what, and this  
21      is a new existing order."

22            Agent Burns, were there any other discussions about them  
23      being marked?

24     A.     Yes.

25            MR. JONAS: If we can turn to Philly Meeting No. 13

1 | in the excerpt, and if we can play segments F and G, please.

(Whereupon, Philly Meeting No. 13-E, Segment F and G  
were played, while questions were propounded.)

4 Q. (BY MR. JONAS) Do you see where it says ISNA and ICNA?  
5 Have we seen those names before?

6 A. Yes.

## 7 Q. Where?

8 A. ISNA was on several of the documents we have already  
9 discussed as one of the Muslim Brotherhood organizations.

10 MR. JONAS: I believe we need to approach for the  
11 next question I will ask Agent Burns.

12 THE COURT: Sure. Come up.

15 MR. JONAS: Your Honor, we have played two segments  
16 so far where participants discussed being marked, and in fact  
17 the last one someone said the Holy Land Foundation has been  
18 marked. I think in the context it is clear that they are  
19 concerned about being marked as Hamas, and they discuss  
20 creating a new neutral organization.

At this point I was going to ask Agent Burns if she came across any document within the search warrant material that would show how they were marked, and that is the New York Times article that was found at the Holy Land Foundation, which I have right here.

1 MS. MORENO: If I can get my notes, Your Honor?

2 THE COURT: Go ahead.

3 MR. JONAS: Your Honor, we may have a resolution.

4 THE COURT: Okay.

5 MR. JONAS: Mr. Cline can approach. In the last  
6 trial I believe that we had a stipulation that I don't  
7 remember the exact terminology.

8 MR. CLINE: Mr. Jacks just reminded me of this. We  
9 had a stipulation, and I am paraphrasing, but the basic idea  
10 was that Holy Land at that point had been publicly associated  
11 with Hamas in some fashion. I forget exactly how we worded  
12 it; publicly accused or named or something like that. And  
13 that was how we dealt with this issue in the last trial. I  
14 had forgotten about that.

15 THE COURT: By a stipulation?

16 MR. CLINE: By a stipulation.

17 THE COURT: That had been --

18 MR. CLINE: That it had been publicly identified,  
19 accused, there was some term like that. We can --

20 THE COURT: Come up with something or find it?

21 MR. JONAS: That is fine with me. It is just that I  
22 am at the point now where I think it would be relevant. So I  
23 don't know if you want to give us five minutes to work out the  
24 language.

25 THE COURT: Sure. We can do that.

1                   MS. MORENO: Because I have all my wonderful  
2 objections lined up, Judge, that are devastating.

3                   MR. CLINE: Let me consult with my colleagues on the  
4 Defense side.

5                   THE COURT: Sure. Do you want the jury out for a  
6 few minutes?

7                   MR. CLINE: That might be good.

8                   (The following was had in the presence and hearing  
9 of the jury.)

10                  THE COURT: Members of the jury, if you want to step  
11 back into the jury room for just a few minutes. The lawyers  
12 are trying to work out something, and see if we can work  
13 something out.

14                  (Whereupon, the jury left the courtroom.)

15                  THE COURT: Go ahead and be seated.

16                  Do you remember the last time, the stipulation -- there  
17 was about three or four of these newspaper articles. Did it  
18 cover all of them, or just this particular one.

19                  MR. JONAS: I believe just this particular one, Your  
20 Honor.

21                  MS. HOLLANDER: It just covered this one. I think  
22 we have all the stipulations, but they are -- I don't have  
23 them up here.

24                  MR. JONAS: Your Honor, Mr. Cline is going to write  
25 out the language.

1                   THE COURT: All right.

2                   THE COURT: Go ahead and bring the jury in.

3                   (Whereupon, the jury entered the courtroom.)

4                   THE COURT: Mr. Jonas?

5                   MR. JONAS: Thank you, sir.

6       Q. (BY MR. JONAS) Agent Burns, the last segment we played  
7 from Philly Meeting No. 13-E, the unidentified male that was  
8 speaking said that the Holy Land Foundation was stamped, or  
9 ready as whatever. And the prior segment I read from Philly  
10 Meeting No. 5, the unidentified male talked about that "We are  
11 placed in a corner. It is known who we are. We are marked."  
12 Okay?

13                  MR. JONAS: Per stipulation, Your Honor, I would  
14 like to read to the jury, upon agreement of the parties, the  
15 following:

16                  "As of the date of the Philadelphia meeting, the HLF has  
17 been publicly named in a newspaper article as being associated  
18 with Hamas."

19                  THE COURT: Okay. And that stipulation the parties  
20 have agreed to, so you can accept that as an established fact  
21 without hearing any additional evidence.

22                  I guess for the record we should get -- Mr. Cline, that  
23 is language you have agreed to. Correct?

24                  MR. CLINE: Yes, Your Honor.

25                  THE COURT: On behalf of all counsel and all the

1 parties?

2 MR. CLINE: Yes, Your Honor.

3 MR. JONAS: Thank you, sir.

4 Q. (BY MR. JONAS) Agent Burns, that Philly Meeting No. 5  
5 segment I read, as well as some other segments we read and  
6 played, discussed a new organization being created. A neutral  
7 organization is a term that was used. Do you have before You  
8 Elbarasse Search 19?

9 A. I do.

10 Q. Okay. And what is the date of that document?

11 A. July 30th, 1994.

12 Q. And was this document created -- Is that after the Philly  
13 Meeting in 1994?

14 A. It is.

15 MR. JONAS: Your Honor, at this time I would offer  
16 into evidence Elbarasse Search No. 19.

17 THE COURT: That is admitted.

18 MR. JONAS: If we could put page 1 of that on the  
19 screen, first.

20 Q. (BY MR. JONAS) Agent Burns, what language is this  
21 document in?

22 A. It is primarily in Arabic, but there are a few words  
23 there that were in English in the original document.

24 Q. Starting with the English words on this first page that  
25 you see, what are those organizations? What is that?

1 A. The UASR that we have discussed at length, the HLF, the  
2 IAP, and a new organization CAIR.

3 Q. Was this page translated?

4 A. It was.

5 Q. The whole document was translated?

6 A. It was.

7 MR. JONAS: If we can go to page 6.

8 Q. (BY MR. JONAS) What is the title of this document?

9 A. "Meeting agenda for the Palestine Committee, July 30th,  
10 1994."

11 Q. And if you go to No. 3, can you read what it says?

12 A. It says, "Reviewing reports of the working organizations,  
13 and it includes:

14 "Reviewing work report of the previous stage.

15 "Financial situation.

16 "Future suggestions to develop work of the following  
17 organizations: IAP, HLF, UASR, Coordination, CAIR."

18 Q. Do you know what CAIR stands for?

19 A. Yes.

20 Q. What does it stand for?

21 A. Council on American-Islamic Relations.

22 Q. Prior to the Philadelphia meeting did you see the  
23 organization CAIR mentioned in any of the Elbarasse documents?

24 A. It did not exist prior to the Philadelphia meeting.

25 Q. So it came into being after Philadelphia?

1 A. That is correct.

2 Q. Okay. Were there any additional discussions by the  
3 participants about how they would portray themselves to  
4 America?

5 A. Yes.

6 MR. JONAS: If we turn to Philly Meeting No. 16 and  
7 the excerpts, if we can play Segment F and G together, please.

8 (Whereupon, Philly Meeting NO. 16-E, Segment F and G  
9 were played, while questions were propounded.)

10 Q. (BY MR. JONAS) Who is speaking here?

11 A. This is the Defendant Shukri Abu Baker.

12 Q. Agent Burns, did you see in that segment where the  
13 Defendant Shukri Baker talked about making presentations on  
14 human suffering and the rights, the issues he understands, he  
15 says?

16 A. Yes.

17 Q. Were there additional discussions making presentations to  
18 America on human rights?

19 A. Yes.

20 MR. JONAS: If we can go to Philly Meeting No. 10,  
21 Segment G. That is on page 5 of the excerpted portion. If we  
22 can put that on the screen, please, the bottom segment.

23 Q. (BY MR. JONAS) What does this unidentified male say,  
24 please?

25 A. He says, "The first is to make the agreement fail, and

1       this is a public policy and all of us are opposing it. It is  
2       the just the media which exaggerated the issue. Second,  
3       finding the alternatives. The first step should be taken  
4       advantage of by the brothers in -- how to make the agreement  
5       fail. The national rights, human rights, stuff which will be  
6       exploited in order to make you look legitimate while you call  
7       on the annulment of the agreement. I mean, there should be  
8       legitimacy to everything we do so that they won't -- they  
9       should always be in -- this is one aspect. The other aspect  
10      is working to find the alternatives. Create programs in order  
11      to target the agreement."

12      Q.     Agent Burns, were there other discussions about  
13      exploiting human rights?

14      A.     Yes.

15                    MR. JONAS: If we can go to Philly Meeting No. 12  
16      and play Segment D.

17                    (Whereupon, Philly Meeting NO. 12, Segment D was  
18      played, while questions were propounded.)

19      Q.     (BY MR. JONAS) Agent Burns, did you see where the  
20      Defendant Shukri Baker talked about neglecting camps in the  
21      past?

22      A.     I did.

23      Q.     Did he talk -- Were there any other times where he talked  
24      about the camps and taking advantage of them?

25      A.     Yes.

1                   MR. JONAS: If we can turn to Philly Meeting No.  
2 14-E for the excerpt, play Segment B, please.

3                   (Whereupon, Philly Meeting No. 14-E, Segment B was  
4                   played, while questions were propounded.)

5 Q. (BY MR. JONAS) Agent Burns, some of the words are cut  
6 off on the right. Do you see that on your screen?

7 A. I do.

8 Q. Do you have this particular portion in your transcript in  
9 front of you?

10 A. I do. It may take me just a minute to find it. Okay. I  
11 have it.

12 Q. Go ahead.

13 A. Beginning with "Stressing the suffering," "Stressing the  
14 suffering in the Palestinians' camps in Palestine and outside  
15 it. The camps program which is excluded in the agreement  
16 process...the suffering still exists, and we could benefit  
17 from the suffering in the camps from the angle of approaching  
18 the Palestinian cause from this angle at least. Inside  
19 Palestine and in all the camps all over the world. The third  
20 item is focusing on the humanitarian needs which are not much  
21 affected by the political changes to start with. An example  
22 is the orphan sponsorship program. It has no relationship  
23 with the changes. Okay? The needy or the handicapped child  
24 fund, the student fund, anti-poverty projects, these are  
25 projects which will remain even if there is a Palestinian

1 state in place. How much more for people without a  
2 leadership? The...always negates the religious sentiment at  
3 the donors. There is a religious sentiment at the donor. I  
4 tell him, 'Come on. You will give you zakat out anyway. Give  
5 me your zakat and I will send it to Palestine.' He will give  
6 it anyway. It won't make a difference to him. Sacrifices,  
7 establishing endowment projects and drinking fountains and  
8 carrying out the legitimate will project. It is a long term  
9 plan. That's fine. Now, if three or four people wrote their  
10 wills, we could get half a million dollars. It is a long  
11 term, but it is a legitimate will which he will carry out  
12 whether with you or with somebody else, focusing on the  
13 importance of supporting the Islamic organizations in the  
14 upcoming stage. I will speak about a specific population  
15 which is the Islamic population. See, if we don't support the  
16 Islamic organizations, other organizations will come to  
17 destroy and crush them. The Islamic University, the  
18 University, this is a very private address. I cannot place an  
19 ad in the newspaper saying, 'Save the Islamic institutions.'  
20 Starting a dialogue with the American public to contribute to  
21 the new phase of rebuilding in Gaza and Jericho. This is an  
22 important issue. What happened happened. Why should I rely  
23 on self-rule? No. Come here. I go to the American public  
24 and tell him, 'That is excellent. Good. We are going to  
25 build Gaza and we are going to build Jericho. I want you to

1 help me.' That is because I will be in a position of  
2 competition with the other Palestinian organizations which  
3 work with...and which work with the American public. They  
4 will now have impetus, strong media, and they will have strong  
5 credibility and legitimacy. We will find ourselves competing  
6 with the Americans. Why should I portray myself as...saying  
7 that I am an Islamist, only an Islamist, and don't  
8 want...don't want the Americans. No, I will open a new  
9 dialogue with the Americans and benefit from...and let them go  
10 to Jericho and Gaza. Yes, it is not wrong. Seven, start a  
11 dialogue with the U.S. and international charitable  
12 organizations, U.N organizations, and embarking on new joint  
13 projects in Palestine. Please note that if there is one  
14 advantage of this Palestinian-Israeli agreement to me, it is  
15 that your address to the American public about the Palestinian  
16 cause will be easier. The psychological barrier between the  
17 Americans and the Palestinian people has begun to erode or  
18 disappear. I can benefit from this point by...but I cannot  
19 approach them through my strict Islamic address. I can't tell  
20 him 'I demand 48 borders.' No way. No way on earth. Okay?"

21 Q. Agent Burns, to pause for a moment, what items have we  
22 seen that addresses the demanding of 48 borders?

23 A. Again, that was the Hamas charter.

24 Q. Okay. Please continue.

25 A. "No. I approach it through humanitarian suffering,

1 refugees' rights, and issues which the Americans will agree  
2 with you on. An example of that is the U.N. organizations and  
3 the institutions which give grants, and we could do various  
4 projects. Finally, the broad lines which you could call them  
5 strategies, one, the...address should steer totally clear from  
6 any tension towards the issue of the self-rule. I believe  
7 that I as a charity organization should not give an opinion or  
8 a political judgment at all. I have no relationship with  
9 that. I am not a political institution. I want to...there is  
10 a new reality I'm dealing with now. It is not my job to  
11 attack the self-rule. This is my view. Amicable relationship  
12 must be maintained with all parties inside Palestine. This  
13 goes without saying, my brothers. We must not put any  
14 factional or partisan influence on the Foundation of America  
15 as it is the charitable arm of this or that. No. I say that  
16 this is wrong and we must act out of a charitable stand. We  
17 must act as an American organization which is registered in  
18 America and which cares for the interests of the Palestinian  
19 people. It doesn't cater to the interests of a specific  
20 party. Our relationship with everyone must be good,  
21 regardless."

22 Ghassan Elashi says, "Including the Islamists, of  
23 course."

24 And Shukri Abu Baker says, "The Islamists, of course.  
25 No, there is no problem, my brother. This is...we gave the

1 Islamists \$100,000 and we gave others \$5,000."

2 Q. I believe on the screen it is slightly different, if you  
3 could read it.

4 A. I am sorry. "In the past we gave the Islamists \$100,000  
5 and we gave others \$5,000."

6 Q. Agent Burns, is there any other discussion about that  
7 last statement, "In the past we gave the Islamists \$100,000  
8 and we gave the others \$5,000"? Did anyone else reference  
9 back to that?

10 A. Yes.

11 MR. JONAS: If we can go to Philly Meeting No. 13,  
12 segment H, and play that, please.

13 Q. (BY MR. JONAS) Before we do that, Agent Burns, who are  
14 the Islamists, or what are the Islamists as referenced in this  
15 case?

16 A. In this context, the Defendants. That would be people  
17 with the Muslim Brotherhood, supporting Hamas, like that.

18 MS. HOLLANDER: Your Honor, I am going to object to  
19 her defining the term Islamist. I don't believe she has any  
20 expertise to do that.

21 THE COURT: Overruled.

22 Q. (BY MR. JONAS) Who are the others? They say "The  
23 Islamists \$100,000 and we gave the others \$5,000."

24 A. Anyone else who is not an Islamist.

25 MR. JONAS: If we can play Segment H of Philly

1 Meeting No. 13.

2 (Whereupon, Philly Meeting No. 13, Segment H was  
3 played, while questions were propounded.)

4 Q. (BY MR. JONAS) Agent Burns, did the Holy Land Foundation  
5 give \$100,000 to Islamists?

6 A. They gave much more to Islamists.

7 Q. As an example, did they give \$5,000 or some other nominal  
8 amount to others?

9 A. They did.

10 Q. Is there a particular of that?

11 A. One good example that I looked at was a donation to the  
12 victims of the Oklahoma City bombing.

13 Q. Do you have before you what has been marked as InfoCom  
14 Search No. 5?

15 A. I do.

16 Q. What is that item?

17 A. It is a thank-you letter from the Oklahoma City Community  
18 Foundation to the Holy Land Foundation.

19 MR. JONAS: Your Honor, at this time I would offer  
20 into evidence InfoCom Search No. 5.

21 MS. HOLLANDER: No objection.

22 THE COURT: Admitted.

23 MR. JONAS: If we can put that on the screen,  
24 please.

25 Q. (BY MR. JONAS) What does this document state?

1 A. It says -- Do you want me to read it?

2 Q. Sure.

3 A. "On behalf of the citizens of Oklahoma City, Mayor Ronald  
4 J. Norick joins me in thanking you for sharing your generosity  
5 with the Community Foundation and helping the charitable needs  
6 of Oklahoma City. The Oklahoma City Community Foundation  
7 thanks you for your gift of \$5,000. It will be a credit in  
8 your name for the benefit of the Mayor's Disaster Relief  
9 Fund."

10 Q. Agent Burns, were there any phone calls between any of  
11 the Defendants regarding the Oklahoma City bombing?

12 A. Yes.

13 Q. Who?

14 A. The Defendants Mohammad El-Mezain and Abdulrahman Odeh.

15 Q. Do you have before you what has been marked as El-Mezain  
16 Wiretap No. 2?

17 A. I do.

18 Q. Is that a phone call?

19 A. It is.

20 Q. What is the date of it?

21 A. April 19th, 1995.

22 MR. JONAS: Your Honor, at this time I would offer  
23 into evidence El-Mezain Wiretap No. 2.

24 THE COURT: Admitted.

25 MR. JONAS: If we can play that call, please.

(Whereupon, El-Mezain Wiretap No. 2 was played,  
while questions were propounded.)

3 Q. (BY MR. JONAS) Who is the MO?

4 A. That is the Defendant Mohammad El-Mezain.

5 | 0. And who is the AB?

6 A. That is the Defendant Abdulrahman Odeh.

7 Q. Agent Burns, I want to move away from the Philadelphia  
8 meeting.

9                   MR. JONAS: Your Honor, I can keep going, or we can  
10 break. It is up to you?

11 THE COURT: Are you at a good breaking point?

12 MR. JONAS: Yes.

13 THE COURT: Let's go ahead and break for the day,  
14 then.

15 Be back at 9:00 in the morning. Please recall the  
16 instructions about not discussing the case with anyone or not  
17 reading anything about it.

(Whereupon, the jury left the courtroom.)

THE COURT: Agent Burns, you can step down.

20 Do we need to come in early in the morning and finish up  
21 the rest of these exhibits you intend to offer through Agent  
22 Burns, or where are we with that?

23 MR. JONAS: Your Honor, I believe the only other  
24 issues are the magazines --

25 THE COURT: The magazines, and maybe the rest of the

1 newspaper articles.

2 Anything else that anybody thinks we need to address as  
3 far as the exhibits that were given to you that he plans on  
4 offering through Agent Burns?

5 MR. CLINE: I don't think so, other than the ones  
6 that Mr. Jonas has mentioned that we have our continuing  
7 objections.

8 THE COURT: I understand those. Why don't we be  
9 here at 8:30 in the morning, and we will address those issues.  
10 If you can think of something else, we will address them then.  
11 Don't work too hard on it.

12 MR. JONAS: Your Honor, I am going to go through the  
13 schedules and summaries that we admitted today, and I am going  
14 to make sure that I offered for admission all the supporting  
15 documentation. And if I missed any of that, I would like to  
16 clean that up in the morning.

17 THE COURT: Sure. We will do that.

18 (End of day.)

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1 I HEREBY CERTIFY THAT THE FOREGOING IS A  
2 CORRECT TRANSCRIPT FROM THE RECORD OF  
3 PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

4 I FURTHER CERTIFY THAT THE TRANSCRIPT FEES  
5 FORMAT COMPLY WITH THOSE PRESCRIBED BY THE  
6 COURT AND THE JUDICIAL CONFERENCE OF THE  
7 UNITED STATES.

8  
9 S/Shawn McRoberts

06/04/2009

10 \_\_\_\_\_ DATE \_\_\_\_\_  
11 SHAWN McROBERTS, RMR, CRR  
FEDERAL OFFICIAL COURT REPORTER

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